

MARINE PROTECTED AREAS FEDERAL ADVISORY COMMITTEE

DAY II

Wednesday, May 18, 2005

8:00 a.m.

Doubletree Hotel
Portland, Maine

PARTICIPANTS:

Dr. Tundi Agardy, Sound Seas
 Robert Bendick, The Nature Conservancy
 David Benton, commercial fishing
 Dr. Daniel Bromley, University of Wisconsin, Chair
 Dr. Anthony Chatwin, The Nature Conservancy
 Dr. Michael Cruickshank, Marine Minerals Technology
 Center Associates
 Dr. Rod Fujita, Environmental Defense
 Dr. Delores Garza, University of Alaska
 Eric Gilman, National Audubon Society
 Dr. John Halsey, Michigan Department of State
 Dr. Mark Hixon, University of Oregon
 George Lapointe, Maine Department of Marine
 Resources
 Dr. Bonnie McCay, Rutgers University, Vice-Chair
 Mel Moon, Quileute Natural Resources Department
 Dr. Steven Murray, California State University,
 Fullerton
 Michael Nussman, American Sportfishing Association
 Terry O'Halloran, recreation industry (Hawaii)
 Dr. John Ogden, Florida Institute of Oceanography,
 University of South Florida
 Dr. Walter Pereyra, commercial fishing
 Max Peterson, International Association of Fish
 and Wildlife Agencies (retired)
 Gil Radonski, sport fishing
 Dr. James Ray, Oceanic Environmental Solutions,
 LLC
 Barbara Stevenson, commercial fishing
 Kay Williams, Gulf of Mexico Fishery Management
 Council
 Robert Zales II, recreational fishing

Other Participants:

Joseph A. Uravitch, Director, MPA Center
Tom Kitsos, Department of Commerce
Heidi Recksiek, National MPA Center
Dr. Charles Wahle, National MPA Center
Larry Maloney, Department of the Interior
Dr. Brian Melzian, Environmental Protection Agency
Jacqueline Schafer, U.S. Agency for International
Development, Deputy Assistant Administrator,
Bureau for Economic Growth, Agriculture & Trade
Bobbi Walker
Leslie Ann McGee
Bob Fletcher
Bob Hayes

C O N T E N T S

	PAGE
Call to Order	5
Document Review and Discussion	5
Tour of Portland Fish Exchange and Fish Pier	178
Lunch	
Document Review and Discussion: Addressing Comments	179
Adjourn for the Day	357
Reception	

1 P R O C E E D I N G S

2 DR. BROMLEY: I think I should, whatever, call
3 us to order. I hereby call us to disorder. Are you
4 ready for more disorder? Okay. You have before you
5 the minutes from our February meeting. I will not ask
6 for approval now because presumably you have not had
7 time to read every word and check every comma. But I
8 would call it to your attention and ask you to look at
9 the minutes and perhaps just before we break to go to
10 the Fish Exchange, we will approve the minutes from the
11 February meeting.

12 Do we need some time, Barbara, or Lauren, Joe,
13 somebody, before we leave this room for directions,
14 instructions? Would you like a few minutes to --

15 MS. STEVENSON: Just a minute or two.

16 DR. BROMLEY: Just a minute or two? Okay.
17 We'll do that. And, Barbara, do we need to leave this
18 place at 11:30 sharp? Is that the plan?

19 MS. STEVENSON: No.

20 DR. BROMLEY: It's pretty flexible?

21 MS. STEVENSON: Right. You want to be there
22 before noon, but other than that, it's flexible.

1 DR. BROMLEY: Okay. So we will stop at 11:30.
2 We'll give you a few minutes, Barbara, to explain, and
3 then we'll stop. Bob?

4 MR. ZALES: I have a question about the
5 minutes. Generally the minutes that we've always done,
6 and I don't know why I haven't asked this question
7 before, but knowing that we have a court reporter,
8 because it's kind of a summary of the meeting itself.
9 There's really not much in here about the discussion
10 from the panel. If somebody wanted to obtain those
11 discussions, how would they do that?

12 DR. BROMLEY: I'll have to defer.

13 MS. WENZEL: The transcript is posed on the
14 website. So if people wanted to get the detail, they
15 can get it there.

16 MR. ZALES: Okay. So it's in much more detail
17 than this?

18 MS. WENZEL: It's verbatim.

19 MR. ZALES: Oh, okay. Great. Thank you.

20 DR. BROMLEY: Okay. We have compiled a list
21 of issues that were raised as we went around the room
22 yesterday, and I believe it's been distributed.

1 MS. WENZEL: Actually, it has not been
2 distributed.

3 DR. BROMLEY: Okay. Well, it will be. I'm
4 sorry, Lauren.

5 MS. WENZEL: That's okay.

6 DR. BROMLEY: Lauren is multi-tasking here.
7 And the place we'd like to start would be to address
8 the subcommittee, the ad hoc subcommittee that met this
9 morning to help us with the definition of access,
10 language in the document and so on, and then we have
11 Max's proposed language about authority.

12 So I'd like to start with those things, clean
13 up access, clean up authority, and then we have some
14 other -- what we did yesterday is we took the census of
15 what we heard, created major issues, what we think are
16 major issues, what we think are narrower issuers.
17 Notice we didn't call them minor. They're narrower.
18 And then some packaging and delivery issues.

19 So the plan it seems to me will be to address
20 items number 1 and 2 on these outstanding issues that
21 you have before you, and Bonnie is prepared to present
22 on behalf of item number 1. We have Max's language on

1 number 2, and then we'll work our way down through some
2 of these bigger issues, see how to address them.

3 Bonnie, do you want to --

4 DR. McCAY: Sure. This morning, Max, Barbara,
5 Mark, Gil, John and myself met over breakfast and
6 discussed the question of definition for the glossary,
7 the glossary entry for access, and we also discussed
8 page 3, objective number 4, the rewritten version of
9 which some people were uncomfortable with, and there
10 was some ambiguity about. And then we added to our
11 agenda page 3, objective number 2, because there was
12 concern about that and we thought might be easily
13 handled, and so we're proposing a change in that to you
14 as well.

15 I'm waiting for the --

16 DR. BROMLEY: Yeah. We're waiting for the --

17 DR. McCAY: You know, a moment of silence for
18 the --

19 DR. BROMLEY: While we wait for the
20 technology.

21 DR. McCAY: -- lost words and confused
22 thoughts. Well, let me start by saying, the easy part

1 is, if you look at objective number 2, there is a
2 phrase in every geographic region that Barbara had
3 pointed out was of some concern. And we proposed
4 eliminating that from the text. It isn't necessary.
5 The phrase that precedes it, which I don't remember
6 because I don't have it in front of me, you know, seems
7 -- it's about representative examples, and it seems to
8 be adequate to meet the intent of the Executive --

9 DR. BROMLEY: I'll read it to you. Item 2 now
10 reads: Conserving, enhancing and/or restoring
11 representative examples of the nation's marine
12 ecosystems and habitats in all geographic regions, as
13 well as unique biophysical and geologic features.

14 DR. McCAY: And Barbara could probably speak
15 to it better, but I think the general concern was the
16 lumping and splitting and defining what geographic
17 regions are, the implications of that seemed to be kind
18 of scary. Barbara, do you want to speak to it better?

19 MS. STEVENSON: Well, that, and then there's
20 the presumption that even if there were currently MPAs
21 that would meet this criteria, that there would be some
22 in the future making much smaller what the geographic

1 regions were, and then you would be obligated to have
2 one in each geographic region, whereas if you take it
3 out, you can have as many or as few in any particular
4 geographic region, but just the geographic region is
5 not the determination that you need one.

6 DR. McCAY: I think if we're going to have
7 computer problems, maybe we should hold off a little
8 bit. What do you think?

9 DR. BROMLEY: Well, I think people -- let's go
10 on with this conversation. Maybe people have it in
11 front of them. If they don't, it's a short sentence.
12 Wally and Tony I have on the queue, and Rod.

13 DR. PEREYRA: In our subcommittee, we had a
14 rather lively discussion of this particular issue as I
15 recall. I see Tundi is smiling over there. I still
16 have an ongoing, a difficult ongoing problem with this
17 particular item. Let me see if I can make myself
18 clear.

19 In the North Pacific, the principal ecosystem
20 that we have is the Eastern Bearing Sea ecosystem.
21 It's fairly well defined. It's a large marine
22 ecosystem. It's a one of. There's only one of those

1 in the world. How do we address that in terms of a
2 representative example? In other words, how do you
3 deal with that?

4 I think that the way this is written, it may
5 hold for some coral reef situations and whatnot where
6 you've got multiple examples of the same sort of
7 ecosystem where you can have that. But in this
8 situation, it just doesn't compute. The same would
9 happen, say, in the Gulf of Maine, that particular
10 ecosystem. And I guess I'm asking those that are, you
11 know, are comfortable with this, is maybe they could
12 help me in coming to grips with that. Because I think
13 that that's a difficult situation this particular --
14 the way it's written right now. Maybe if a couple word
15 changes could effect that.

16 DR. BROMLEY: Okay. I have Tony, Rod, Bob
17 Zales and George.

18 DR. CHATWIN: I have a couple of comments.
19 One is, I'll offer -- I'll attempt to help Wally
20 understand. An ecosystem may be unique, but an
21 ecosystem is -- a number of ecosystems are unique,
22 especially at the sale, as a large marine ecosystem,

1 and it's comprised of the physical elements that sort
2 of build the characteristics of that ecosystem and the
3 species that inhabit that physical environment. And,
4 you know, the habitats, there are a number of different
5 habitats within that large marine ecosystem.

6 And the way I interpret this, and when we do
7 assessments for the Nature Conservancy, we interpret it
8 in the same way, is that representative approach means
9 we want to represent all the different types of
10 habitats, and if necessary, species as well.

11 A representative approach -- when we talk
12 about natural heritage, you know, what is our natural
13 heritage? We haven't defined that. One way of
14 thinking about it is in that natural environment within
15 the large marine ecosystem, and how do we represent
16 that? It's all the different components of that
17 natural environment.

18 That's one part of it. Another comment I have
19 is, I'm troubled by removing that language entirely,
20 because that language, not as written, but is pretty
21 similar to language that's already in the Executive
22 Order. And I don't think we should go and start

1 changing language in the Executive Order in our
2 document.

3 Here, under section 4, number 3, it calls for
4 a biological -- in the Executive Order -- it calls for
5 a biological assessment of the minimum area where
6 consumptive uses would be prohibited that is necessary
7 to preserve representative habitats in different
8 geographic areas of the marine environment.

9 So I would support changing all geographic
10 areas to different geographic areas to be consistent
11 with the Executive Order. But I am opposed to removing
12 all that language in relation to geographic, or the
13 reference to geographic areas, precisely for the
14 reasons that Barbara has mentioned; that you can have
15 as many or as few, and they could all be like our
16 national --

17 You know, we could decide that national MPA
18 system will be our national estuarene research reserves.

19 And they would be all estuarene habitats. And that
20 would not be adequately protecting our natural
21 heritage, the marine natural heritage.

22 So I think -- we also have federal agencies

1 that already take this approach of representation
2 within geographic areas. So, my suggestion is that we
3 go with the language that's in the Executive Order of
4 different geographic areas.

5 Thank you.

6 DR. BROMLEY: Okay. Rod, Bob Zales, George,
7 and I guess Wally wants to get back in.

8 DR. FUJITA: Thank you, Mr. Chairman. I think
9 that the two difficulties here might arise from a lack
10 of clarity about terms. I think Wally's problem comes
11 from the difference between ecosystem and habitat.

12 You know, there's large marine ecosystem like
13 the Bearing Sea and the Caribbean Sea. Habitats have a
14 connotation of a smaller place that's more spatially
15 defined. So, in order to avoid Wally's problem, I
16 would suggest striking ecosystems and just say marine
17 habitats as the Executive Order says, because that's
18 really what we want is representative examples of
19 habitats.

20 The difficulty about all geographic regions
21 comes I think from a misunderstanding of the intent.
22 Usually when designing networks, one intends to have

1 representative habitats within all the biogeographic
2 provinces so that because those biogeographic provinces
3 are distinct from each other both in terms of species
4 distribution, but more importantly, because they're
5 bounded by biophysical boundaries that tend to prevent
6 connectivity between the two provinces.

7 So if you have an offshore jet, for example,
8 it doesn't really make sense to have a network that
9 spans the offshore jet, because if the object -- if one
10 of the objectives of creating the network is to enhance
11 connectivity between the MPAs to get synergistic
12 benefits, and there's no transfer of larvae across that
13 boundary, you know, it doesn't make sense to do that.

14 It makes sense to have a network in one biogeographic
15 province and another in the next biogeographic
16 province.

17 So, I would propose to fix that by saying
18 instead of in all geographic regions, to say in all
19 biogeographic provinces.

20 DR. BROMLEY: Okay. Rod, can you -- these
21 wording suggestions are good. Can we just kind of hold
22 them and let's hear some comments? And then maybe at

1 the end we can match it all together. Mashed things
2 together before, have you? Bob Zales. And then I have
3 George, Wally, Steve and Mike.

4 MR. ZALES: I'll pass. My concerns are
5 similar to Wally's.

6 DR. BROMLEY: Okay.

7 MR. ZALES: And I'm getting some answers.

8 DR. BROMLEY: All right. George?

9 MR. LAPOINTE: I'm going to pass as well, Mr.
10 Chairman. I don't think I'm going to have anything to
11 --

12 DR. BROMLEY: Wonderful. Wally, it's your
13 turn again.

14 DR. PEREYRA: I just want to support Rod's
15 suggestion. I think that's an excellent way of helping
16 me sleep better now.

17 (Laughter.)

18 DR. BROMLEY: All right. Keep that wording in
19 mind, folks. Steve?

20 DR. MURRAY: I think Rod addressed Wally's
21 main concern, and whereas I don't have a real problem
22 with the habitat part of it, I do have a problem with

1 your biogeographic province issue.

2 We just had a 45-minute, 20-member science
3 panel discussion on the Marine Life Protection Act in
4 California about what -- how this would apply or this
5 issue applies. Because in the Marine Life Protection
6 Act, the law reads regions of distinct biological
7 characteristics.

8 And the issue is, is do you make those
9 provinces or do you make them areas where connectivity
10 and isolation becomes really the issue and where
11 community types change over geographic areas inside
12 biogeographic boundaries? So, Rod, I disagree with
13 your biogeographic province issue.

14 However, I think that Tony's point about
15 making this consistent with the Executive Order is
16 really the best way to go.

17 DR. BROMLEY: Okay. Can Wally and Tony and
18 Rod revise their agreed-upon language?

19 DR. FUJITA: Steve's right. It's not about
20 biogeographic provinces. I erred. It's really about
21 these biophysical distinctions.

22 DR. BROMLEY: Wally, is that -- can you live

1 with that for now?

2 DR. PEREYRA: Sure.

3 DR. BROMLEY: Okay. Mike, and then Dave
4 Benton.

5 DR. CRUICKSHANK: I like what Tony said. It
6 made a lot of sense.

7 DR. BROMLEY: Good. Thank you. Okay. David?

8 MR. BENTON: Mr. Chairman, I was unclear. Is
9 that using the language from the Executive Order also
10 include the reference to identifying the minimum area
11 necessary? I was unclear about that.

12 DR. BROMLEY: No.

13 MR. BENTON: That's also in the text of the
14 EO.

15 DR. BROMLEY: Tony.

16 DR. CHATWIN: Well, no. I was referring to
17 that section in the Executive Order for the purposes of
18 the reference to indifferent geographic areas of the
19 marine environment. But I read the entire text.

20 DR. BROMLEY: Okay.

21 DR. CHATWIN: If he wants to put it in, I'm
22 happy to do so.

1 (Laughter.)

2 DR. BROMLEY: Okay. Barbara, and then I'd
3 like to see if we can't --

4 MS. STEVENSON: Yeah. Just as we're not going
5 to put in some other things that are in the Executive
6 Order, there are a number of things that we're going to
7 leave for the future. And if we insist on having
8 either the language in the Executive Order or this
9 language in here, then we need to have extensive
10 discussions about the definitions of these, because
11 it's extremely important what the definitions are.

12 I think that you get your point without having
13 it in here. And if at some point in the future you
14 want to discuss all of these issues that this brings
15 up, that's the appropriate time to do it, at the same
16 time that you deal with other issues that we haven't
17 dealt with. Otherwise, we will definitely not finish
18 this week.

19 DR. BROMLEY: Okay. Bonnie, you get the last
20 word.

21 DR. McCAY: Well, yeah. As -- I would suggest
22 then that we -- and I'll make a motion that we revise

1 the objective of -- and Lauren, would you take out the
2 term ecosystems, and the other term and leave it at
3 that. That's my -- hearing what's discussed here, it
4 sounds as if conserving, enhancing and restoring
5 representative examples of the nation's habitats as
6 well as unique biophysical and geological features
7 captures the intent.

8 DR. BROMLEY: Can you -- Lauren?

9 DR. McCAY: Can you do that, Lauren, please?
10 Marine habitats.

11 MR. LAPOINTE: Do you need a second?

12 DR. BROMLEY: Was that a motion, Bonnie?

13 DR. McCAY: Yes. I move that.

14 MR. LAPOINTE: Second.

15 DR. BROMLEY: It's been moved and seconded.

16 Okay. Would people look at this language for -- that's
17 enough. Are you ready? Yes, Mark?

18 DR. HIXON: Just a point of clarification. If
19 this is done, then there has to be alterations done in
20 the glossary as well.

21 DR. BROMLEY: Okay.

22 DR. HIXON: And also -- just clarification as

1 well in this phrase: Unique biophysical and geological
2 features are also defined in the glossary.

3 So it should be bolded.

4 DR. BROMLEY: How does that look? How does
5 that look to the mover?

6 DR. McCAY: Yes.

7 DR. BROMLEY: The seconder?

8 MR. LAPOINTE: Okay.

9 DR. BROMLEY: David? Your hand is up.

10 MR. BENDICK: I have a question for the maker
11 of the motion when it's appropriate, Mr. Chairman. If
12 you want to wrap up whatever you're doing right there,
13 go ahead.

14 DR. BROMLEY: Go ahead.

15 MR. BENDICK: Well, is there an intent to --
16 how does tie in with the language in the Executive
17 Order that I asked about earlier? I'm not convinced
18 that this exactly gets to what Dr. Pereyra was raising,
19 because I'm not sure what the scope of that means yet.

20 And it was something I wanted to raise in
21 other parts. I'm just curious as to how in your mind
22 would that change? Does that tie into, for example,

1 the nominations process or other parts of the text?

2 DR. McCAY: May I speak to this?

3 DR. BROMLEY: Yes.

4 DR. McCAY: I don't think that it's necessary
5 to go to that. Right now we're listing the general
6 objectives, and it seems that based upon the discussion
7 here, that this reflects the sense of the Executive
8 Order, the general sense of it, and that questions
9 about how this is done and so forth, those kinds of
10 things that would be dealt with either at a later
11 incarnation of this advisory group or in other fora.

12 DR. BROMLEY: Okay. Good. Yes, David?

13 MR. BENTON: Mr. Chairman, and to follow up,
14 I'm just wondering if it would be a -- and probably not
15 -- if there would be an appropriate way to reference
16 Section 4(a)(3) of the Executive Order so that this
17 interpretation of that objective would be consistent
18 with that part of the Executive Order?

19 DR. BROMLEY: Are you asking me would it be
20 appropriate to do this?

21 MR. BENTON: I'm asking the maker of the
22 motion.

1 DR. BROMLEY: Asking the maker of the motion
2 whether it would be appropriate to cross-reference.

3 MR. BENTON: To make it consistent.

4 DR. BROMLEY: And --

5 MR. BENTON: And it would be a very simple
6 thing. It would just be something along the lines of
7 consistent with Section 4(a)(3) of the Executive Order.

8 DR. McCAY: Would we do that with all of these
9 statements then? I'm just afraid that would open it up
10 to -- we'd have to go through each one of these. And I
11 think what we're trying to do, is we're trying to work
12 within the Executive Order and to be faithful to it.
13 But we're not doing what I think would have to --
14 somebody would have to do at some point was to, you
15 know, Federal Register, go through and interpret every
16 item of the Executive Order. That's not our task as an
17 advisory committee, to my reading.

18 DR. BROMLEY: And link it and justify it and
19 embed it.

20 DR. McCAY: Yeah.

21 DR. BROMLEY: I'd prefer that we not start
22 there if we could. Okay. Are you ready for the

1 question on these modifications? It's been moved and
2 seconded that item number 2 on page 3 read as it is on
3 the screen. Are you ready for the vote on this? Okay.

4 All in favor of that language say aye.

5 (Chorus of ayes.)

6 DR. BROMLEY: Opposed?

7 (No response.)

8 DR. BROMLEY: Why don't you say no, Rod?

9 DR. FUJITA: No.

10 DR. BROMLEY: Okay. Thank you.

11 (Laughter.)

12 DR. BROMLEY: So, Bonnie?

13 DR. McCAY: Okay.

14 DR. BROMLEY: You're going to look at item 4
15 now.

16 DR. McCAY: All right. Now, number 4 was the
17 objective that we addressed yesterday when the issue of
18 -- the concept of access, appropriate access came up
19 and it was decided and agreed upon and voted to add the
20 phrase, providing appropriate access to, such that the
21 objective read:

22 And promoting the ecologically and economically

1 sustainable use of marine resources for the
2 benefit of individuals, commercial
3 enterprises, communities and the nation.

4 This is what we came back to as a more
5 readable and sensible interpretation of that. So it
6 reads:

7 Providing both appropriate access to and sustainable
8 use of marine resources within marine
9 protected areas.

10 That was our subcommittee's interpretation of what that
11 objective number 4 was as of yesterday.

12 And we also, before we go into discussion
13 about it, I should move down to the definition of
14 appropriate access. We may want to consider them
15 separately, but I think it's important to look at that
16 as well.

17 And we decided that the phrase to be entered
18 in the glossary was appropriate access, not just
19 access, because access is a very simple concept. We
20 wouldn't have to define that. So, appropriate access.

21 So entry to and uses of an area that's
22 considered for or designated as an MPA within the

1 framework of sustainable use and consistent with the
2 goals and objectives of a particular MPA. This does
3 not de facto exclude or include any particular use.

4 So, this is what we present to you. And I
5 will make a motion that we accept the revised version
6 of number 4 and the glossary definition.

7 DR. BROMLEY: Okay. Is there a second?

8 MR. LAPOINTE: Second.

9 DR. BROMLEY: It's been moved and seconded.
10 Okay. Discussion? Tundi had her hand up. Tundi and
11 then --

12 DR. AGARDY: I don't have any problem with the
13 definition of appropriate access, but I do have a
14 little bit of a problem with the revision of number 4,
15 because, again, I think we're falling into the trap of
16 thinking about the objectives of individual protected
17 areas as opposed to the objectives in the national
18 system.

19 And actually, Rod and I met this morning and
20 talked about how we could insert access as an
21 objective. And we were considering access as an
22 objective of the system. And, therefore, we were

1 considering access to the nation's marine resources as
2 opposed to access to individual protected areas.

3 So, I don't know, Rod, if you want to -- you
4 have the language specifically. But we were proposing
5 actually another bullet, another numbered bullet to
6 leave number 4 as is with a sustainable use and to have
7 a separate bullet that describes what we consider to be
8 an important point about how the system is going to
9 ensure fair access to the nation's marine resources.
10 Rod?

11 DR. BROMLEY: Okay. So you have some
12 alternative language. Unless you're ready to amend
13 this, can we have a little discussion on this and then
14 come back to it? Okay. Mike, and then Dave.

15 DR. CRUICKSHANK: I just noticed in reading
16 marine ecosystems is you need the word marine, and
17 perhaps it should be marine habitat. Number 2.

18 DR. FUJITA: We did that.

19 DR. CRUICKSHANK: Yeah, but not marine. You
20 eliminated marine also, didn't you?

21 DR. FUJITA: No, it's there.

22 DR. CRUICKSHANK: Okay.

1 DR. BROMLEY: Dave?

2 MR. BENTON: This is a question about the term
3 sustainable use and how this is employed now perhaps in
4 number 4.

5 DR. BROMLEY: Could you speak into the
6 microphone, please?

7 MR. BENTON: Sorry. Looking at the term
8 sustainable use as we have defined it, Mr. Chairman.

9 DR. BROMLEY: Yeah.

10 MR. BENTON: It's page 21. Sustainable use is
11 in part defined as a goal of concerning the long-term
12 viability of that resource. That's a resource that's
13 being utilized within the MPA, okay. And I'm curious
14 as to how that applies to oil and gas or mineral
15 resources that might be accessed inside the MPA. And
16 whether or not that term is not exactly correct.

17 So, for example, and I'll give you a very
18 concrete example, Mr. Chairman. In the North Pacific,
19 our council set aside 388,000 square nautical miles
20 recently as you all know. That probably qualifies
21 under the national criteria right now to be designated
22 as an MPA. It was clearly not the intention of the

1 North Pacific Fishery Management Council to regulate
2 oil and gas activities in that area. And it's unclear
3 because we haven't discussed the idea of what harm is
4 or what mitigation measures there might be.

5 My reading under this -- under using
6 sustainable -- the way we've defined sustainable use
7 could be interpreted to imply that what we're saying is
8 that because the council took action on fisheries, that
9 oil and gas is excluded from that area. And that would
10 be a very logical reading. I know it's not necessarily
11 our intent, but it's a very logical reading of the
12 word. And so I want to raise that, because I don't
13 want us to have any unintended consequences.

14 DR. BROMLEY: Okay. Bob Zales, and then --
15 oh. Mike, Bob Zales and George. And then Rod.

16 MR. ZALES: Two things. First, I'd like to
17 know how Gil feels about this changing number 4 and the
18 definition.

19 MR. RADONSKI: It's fine.

20 MR. ZALES: You're good with that?

21 MR. RADONSKI: It's okay.

22 MR. ZALES: Because I think number 4 then

1 solves my problem with the recreational use, because
2 that kind of allows everybody in there.

3 DR. BROMLEY: You can live with number 4, Bob?
4 Is that what you're saying?

5 MR. ZALES: Yeah. And I could support that
6 with the caveat of addressing what David just brought
7 up too, because I would have concerns about that as
8 well.

9 DR. BROMLEY: Okay. I have George, I have
10 Rod, I have Mike and Wally.

11 MR. LAPOINTE: First, my hat's off to the
12 subcommittee for helping us with this. When Mark and
13 Max told me they had new language, I was a little
14 leery, but this does the job. If I go to the example
15 David raised of the 340 -- is it 344,000 square miles?

16 MR. BENTON: Eighty-eight.

17 MR. LAPOINTE: Three hundred eighty-eight.
18 I'm sorry. It's a big area.

19 MR. BENTON: What's 40,000 square miles here
20 or there?

21 MR. LAPOINTE: And we have to pay attention to
22 what the objectives of the system is, and the objective

1 of the system is for the system to provide for
2 sustainable use.

3 And then in that example, and there's some
4 question about whether current MMAs are going to be
5 shoehorned in or there's going to be a nomination
6 process, but it's appropriate that they have that
7 discussion about that particular humongous area and
8 make a determination based on the regional process
9 which, you know, we're recommending to find out what
10 appropriate uses are. If oil and gas is appropriate in
11 part of that, touché, and if it's not, the same point.

12 So I think within this objective, that, you
13 know, the individual circumstances that David talked
14 about could be addressed.

15 DR. BROMLEY: All right. I have Rod, Mike,
16 Wally, Barb, Tony, and now Dave again. And we're going
17 to try to shut this down.

18 DR. FUJITA: Okay. Thank you, Mr. Chairman.
19 I'm a little confused by what Mr. Benton said about our
20 definition of sustainable use. I didn't think that
21 definition applied to resources within MPAs. I thought
22 it applied to the nation's marine resources. And in my

1 view, MPAs are intended to enhance sustainable use but
2 not necessarily by allowing extractive activities to
3 occur within them.

4 And just to be clear, if we adopt this kind of
5 language, which I'm not comfortable with, what then is
6 the difference between an MPA and a non-MPA? Don't we
7 allow appropriate access and sustainable use of marine
8 resources throughout the EEZ? What are we creating
9 here?

10 DR. BROMLEY: Mike, Wally, Barbara, Tony,
11 Dave.

12 DR. CRUICKSHANK: Thank you, Mr. Chairman.
13 With regard to David's question, I think that would be
14 coming up under number 7. I have a number of issues on
15 that particular.

16 DR. BROMLEY: Okay.

17 DR. CRUICKSHANK: Thank you.

18 DR. BROMLEY: Okay. Wally?

19 DR. PEREYRA: My concern is similar to Rod's,
20 and that is in a population sense, I think of
21 sustainable use as, you know, involving the entire
22 population.

1 In this case here, it seems to be focused at a
2 very specific area. And that is sort of a subset of
3 the resource itself. So, you know, I may be nitpicking
4 here, but it bothers me a little bit from that
5 standpoint.

6 DR. BROMLEY: Good. Okay. Barbara?

7 MS. STEVENSON: David, is your concern that
8 oil and gas are not a sustainable use since they --

9 DR. BROMLEY: They're a stock resource?

10 MS. STEVENSON: Right.

11 MR. BENTON: Mr. Chairman?

12 DR. BROMLEY: David? Yeah, answer quickly,
13 shortly, briefly.

14 MR. BENTON: Mr. Chairman, under the
15 definition, the way that the definition is written, it
16 says the extraction and/or utilization of a living or
17 nonliving resource in a way that enhances social and
18 economic benefits from that resource. So in this
19 instance, a nonliving resource, that resource, with a
20 goal of concerning the long-term viability of that
21 resource.

22 So, given this definition that we have in

1 front of us that sustainable uses are what are allowed
2 in a marine protected area, I'm wondering how you come
3 up with a long-term goal of conserving the long-term
4 viability of a nonliving resource like oil and gas in
5 an MPA that was not designated for that purpose.

6 So, I'm concerned about an inconsistency here.
7 That's why I brought this up.

8 MS. STEVENSON: I understand. I don't have
9 the answer.

10 DR. BROMLEY: Joe, did you want to?

11 MR. URAVITCH: Yeah. I think the problem is
12 with the definition of sustainable use. Obviously you
13 can't sustain the use of a finite resource.

14 DR. BROMLEY: That's right.

15 MR. URAVITCH: So it's really the sustainable
16 use definition that has the problem.

17 DR. BROMLEY: Would we help ourselves if we
18 just took out sustainable there and then added
19 something about --

20 MR. PETERSON: No, no.

21 DR. BROMLEY: I think the word "sustainable"
22 is giving us some grief here.

1 MR. PETERSON: No. We need --

2 DR. BROMLEY: Okay. All right. Then Tony?
3 I'll go back to my queue.

4 DR. CHATWIN: Yeah. I would say that
5 sustainable is not giving me grief. What's giving me
6 grief is the way this is worded and the way, in the
7 context of the rest of the document, providing this
8 access within marine protected areas without --

9 DR. BROMLEY: Yeah.

10 DR. CHATWIN: I mean, nowhere in the document
11 -- you know, yesterday I talked about our own
12 individual key values and how we set those aside and we
13 came out with our common values. And the key value
14 from the environmental perspective is that we think
15 that some areas should be considered off limits.

16 DR. BROMLEY: Sure.

17 DR. CHATWIN: And so statements that imply a
18 right of access to all the marine protected areas
19 really troubles, you know, us deeply. And I'm all for
20 being rational about this and not saying that all MPAs
21 are to be off limits.

22 But when I understand MPAs, I think that there

1 will be a range of protection. We talked about this.
2 We've said the -- we're sort of framed that discussion
3 in relation to the goals of the MPA.

4 And now we have a statement saying that in
5 every MPA we're going to, no matter what the goals are,
6 oh, no, we have the definition that's in the back pages
7 somewhere.

8 MR. PETERSON: No, no. No, no.

9 DR. CHATWIN: This is how it reads to me. I'm
10 being completely frank here.

11 DR. BROMLEY: Okay. Good. Let him -- respect
12 his position. I mean, let him speak.

13 DR. CHATWIN: Yeah. I think --

14 DR. BROMLEY: This is not the British
15 Parliament where we start to go hooah, hooah.

16 (Laughter.)

17 DR. CHATWIN: Mr. Speaker, Mr. Speaker!

18 DR. BROMLEY: Hooah.

19 (Laughter.)

20 DR. CHATWIN: My right honorable friend.

21 DR. BROMLEY: Wrong honorable friend is the
22 way --

1 DR. CHATWIN: I think rather -- I mean, if we
2 took out the within marine protected areas, you know,
3 that is what's causing grief, I think. Because the
4 example that David brought up is the fact that there's
5 this issue within a marine protected area. There's an
6 interest in talking about the nation's resources. You
7 know, when it's a finite resource, we still want to be
8 thinking of long-term use of it.

9 DR. BROMLEY: Okay. That's good, Tony.

10 DR. CHATWIN: Thank you.

11 DR. BROMLEY: I have Dave, I have George, I
12 have Max and I have Wally, and now I have Eric. And,
13 Dave, you're next. And Bob. And I'd really like to
14 ask for closure. I'd like to see if these subsequent
15 commentators can't bring it down. Let's focus on how
16 we need to fix this. We don't need to go on forever.
17 David?

18 MR. BENTON: Okay. Mr. Chairman, the reason,
19 obviously, you know the reason I raise this issue. I
20 think Joe hit the nail on the head. I think it's
21 because the definition of sustainable use was
22 particularly oriented towards fisheries resources and

1 that kind of activity was not considering other things.

2 And when you do that, this is why I asked the
3 maker of the motion previously about sort of the
4 implications in some of the other actions that we took,
5 because there's sort of a chain reaction happens within
6 the document.

7 And one of the pieces is the definition here.

8 The other piece to me, and the one that would give me
9 a lot of comfort if it was fixed, is that right now,
10 the way the document is worded in the part about
11 nominations of sites into the national system, is that
12 anything that is designated as a federal MPA or meets
13 the federal MPA criteria automatically goes into the
14 system, goes past go and there's no regional review.

15 And that text -- I identified this for you
16 yesterday -- that text, coupled with these
17 inconsistencies to me sets up a situation where we
18 could be recommending something that results in a lot
19 of unintended consequences.

20 I think we need to get this very clear and to
21 be very thoughtful about how we do that his. I believe
22 that if we -- a simple fix in the definition of

1 sustainable use and a fix on the nominations process in
2 the document on how sites are reviewed, including
3 existing sites that meet the national criteria for
4 MPAs, how they are reviewed before they go in the
5 national system, solves the problem.

6 DR. BROMLEY: Would you -- that's clear.

7 MR. BENTON: That's my answer.

8 DR. BROMLEY: Yeah. Could you do some
9 wordsmithing? I mean, will you come back to us in a
10 few minutes maybe with some -- okay. George? And then
11 let me tell you, I have George, I have Max, I have
12 Wally, I have Eric, I have Bob Zales and Mike. And
13 then that's it.

14 MR. LAPOINTE: And I have a couple of
15 comments. First, to the position that Tundi and Rod
16 raised about does sustainable use mean the nation's
17 resources or the sustainable use within MPAs? It's my
18 understanding that it is within MPAs, and it's
19 appropriate use.

20 Because we aren't charged to talk about the
21 sustainable use of the nation's marine resources.
22 We're charged with making recommendations about a

1 system of MPAs within that. And I think that's an
2 important distinction we all need to understand. And I
3 am comfortable with that.

4 To Tony's point, appropriate access to and
5 sustainable use. If again within the context of the
6 big area in Alaska, there will be some, I suspect some
7 appropriate sustainable uses, and those need to be
8 discussed.

9 There will be other MPAs. You know, if you
10 look at Leslie Ann's discussions yesterday about the
11 myriad marine managed areas and MPAs depending on how
12 you make your definition, there is appropriate use, and
13 that needs to be identified. There will be other areas
14 that will be off limits, and appropriate use will be
15 very limited or nonexistent.

16 And so I think that within the context of the
17 system and the objectives that I'm very comfortable
18 with the language we have.

19 DR. BROMLEY: I believe we all experienced
20 first hand a sustainable use of an MPA-like area in the
21 Florida Keys, didn't we? It wasn't extractive, but it
22 was a use.

1 Okay. Max?

2 MR. PETERSON: Mr. Chairman, I think it's been
3 very useful to listen to these comments, because if you
4 go back and look at the context of where this is going,
5 it says to implement the goals of the national system
6 of marine protected areas it proposes certain
7 objectives. So these are the objectives of the system.

8 And so I think we could dispense with the
9 words "within marine protected areas" without losing
10 anything, because we are talking about the goals of the
11 system, which does include sustainable use. So I think
12 if we just strike "within marine protected areas," we
13 get what you and Rod are both -- and I agree with your
14 point, and I think that would do it.

15 DR. BROMLEY: Okay. Wonderful.

16 MR. PETERSON: Okay.

17 DR. BROMLEY: Thanks, Max. Let's just hold --

18 MR. PETERSON: That's my -- well, I'm
19 suggesting maybe we just amend the motion to do that.

20 DR. BROMLEY: Do so if you'd like,

21 MR. PETERSON: Okay.

22 DR. BROMLEY: It's your prerogative.

1 MR. PETERSON: I'd like to amend the motion to
2 drop the words "within marine protected areas."

3 DR. BROMLEY: All right.

4 MR. PETERSON: And I'm basing that on
5 listening to other people.

6 DR. BROMLEY: Sure. That's fine.

7 DR. McCAY: I accept that as a friendly
8 amendment.

9 MR. PETERSON: Okay.

10 DR. BROMLEY: It's been accepted. Who is the
11 seconder?

12 MR. LAPOINTE: Yes.

13 DR. BROMLEY: George, is that acceptable?

14 MR. LAPOINTE: Yes.

15 DR. BROMLEY: Lauren, could you give us a look
16 at what that might be?

17 MR. BENTON: I have a question for that, Mr.
18 Chairman.

19 DR. BROMLEY: A question. Yeah, go ahead,
20 David.

21 MR. BENTON: It's a question to the maker of
22 the motion. So it's no longer the objective of the

1 national system that there might be multiple use MPAs
2 that would allow for some activities and not others?
3 Because that's what I take from what we just did, or
4 what you just did.

5 MR. PETERSON: No. What we're doing here, it
6 says provide both appropriate access to and sustainable
7 use of marine resources, and this is all to implement
8 the goals of the national system. We have a whole
9 bunch of goals, which includes sustainable use and so
10 on.

11 So I think we capture the fact that there will
12 be some MPAs that are closed. There will be some MPAs
13 that have seasonal closures. There will be some MPAs
14 that have multiple objectives. There will be a whole
15 variety of MPAs. And personally since I've dealt with
16 oil and gas quite a bit, many of the oil and gas
17 industries says we are practicing sustainable use, not
18 in every area, but throughout the system. So I think
19 you could -- I think sustainable use still permits
20 extraction in one area that takes out a finite
21 resource. So I don't have any problem with the
22 definition of sustainable use that includes oil and gas

1 in there.

2 So, anyway, Mr. Chairman.

3 DR. BROMLEY: Okay. We have the proposed
4 language. I have a queue here. Can everybody see the
5 language? Providing both appropriate access to and
6 sustainable use of marine resources. Okay. Now,
7 Wally, you were in the queue.

8 DR. PEREYRA: Yes. In due respect --

9 DR. BROMLEY: We're speaking now to the
10 modified --

11 DR. PEREYRA: Due respect to the learned
12 gentleman from Leesburg.

13 DR. BROMLEY: Who might this be?

14 DR. PEREYRA: And the sensitivities of the
15 gentleman from Queensland.

16 (Laughter.)

17 DR. PEREYRA: No, I, all kidding aside, I have
18 a little problem with eliminating --

19 DR. BROMLEY: By the way, it's for Queensland,
20 not from.

21 DR. PEREYRA: Oh, excuse me.

22 DR. BROMLEY: Parliament is not from anyplace.

1 They are for.

2 DR. PEREYRA: I stand corrected, as usual.

3 MR. PETERSON: The right honorable gentleman.

4 DR. PEREYRA: With regards to eliminating the
5 phrase, "within marine protected areas," I have a
6 particular problem with doing that, because that could
7 be interpreted to read that as long as you have access
8 in some other area, you've satisfied this objective,
9 and I don't think that's what was intended.

10 The intent was to specifically highlight the
11 fact that in certain circumstances, multiple use MPAs
12 and so forth, that access would be provided. And I
13 think that that's helpful to have within marine
14 protected areas there.

15 So, I'd prefer --

16 DR. BROMLEY: You're not happy with -- okay.

17 DR. McCAY: Could I, as the maker of the
18 motion, just step in for a second?

19 DR. BROMLEY: Yes.

20 DR. McCAY: Please?

21 DR. BROMLEY: Yes.

22 DR. McCAY: Thank you. You know, I'm now

1 thinking that we should have heard from Rod about what
2 that other objective is, because that other objective
3 may be the one that does the broader, you know,
4 addresses the broader system.

5 And this one -- we do need something to make
6 it clear that there are multiple use MPAs possible, and
7 that -- and one objective should be to have those
8 wherever it makes sense. So I guess I am now wishing I
9 that I hadn't accepted that as a friendly amendment,
10 but rather had asked for entertaining, you know,
11 entertaining another objective.

12 MR. PETERSON: As the maker of the amendment,
13 let me point out that we do say right below that that
14 while some MPAs may have multiple objectives and so on,
15 line 14 of this same series, line 44 in the same list
16 of objectives, so we've already said we expect MPAs,
17 many of them to have multiple objectives and multiple
18 uses.

19 DR. BROMLEY: Thank you.

20 MR. PETERSON: So I don't think -- we're not
21 providing single use here.

22 DR. BROMLEY: Thank you, Max. It's very nice

1 to zoom back out, because we get focused on a sentence
2 or something and we forget where it is embedded. So
3 I'm grateful for that intervention.

4 Okay. I have Eric, Bob Zales, Mike, Tony,
5 Barbara, Mike, Jim, Rod, Tundi. And I thought I said
6 we were going stop it. But anyway, here we are. Eric?

7 MR. GILMAN: I wanted to make two comments.
8 One is that because of the title of the section, which
9 discusses goals and objectives of the national system,
10 I don't think it will have any bearing on the
11 interpretation of the objective to include or remove
12 the last four words, within or not within MPAs. It's
13 going to be interpreted to imply things within the
14 system of MPAs.

15 And my second comment is to suggest that
16 instead of talking about access and sustainable use
17 that we instead discuss appropriate activities within
18 individual units of MPAs within the system. So forget
19 about access and forget about use and talk about
20 activities.

21 DR. BROMLEY: Okay. Bob Zales, Mike, Tony,
22 Barbara, Mike. Mike, you only get one kick at the can

1 here, unless -- oh, there are two Mikes.

2 MR. NUSSMAN: I'm not sure which one is me,
3 but --

4 DR. BROMLEY: I don't either. But Bob Zales
5 is next, and then I think it's Mike Nussman follows
6 him.

7 MR. ZALES: I'm going to speak against the
8 friendly amendment part of it, because I think it's
9 critical, number one, that we stick with marine
10 protected areas, because that's what our charge is
11 dealing with.

12 And some of the other concerns, where it says
13 appropriate access, to me, appropriate means where it
14 can, because it would be appropriate. Where it can't,
15 then you would not have it. And I'll go back to some
16 of my discussion back at the last meeting where I used
17 the analogy of General Motors.

18 And I'm going to change that now because of
19 our new Secretary of Commerce who came from Kellogg.
20 I'm going to play with cereals. Special K does
21 something different than corn flakes or frosted flakes.
22 Each one does a little thing different. And I'm still

1 of the opinion that you've got the corporate name of
2 MPA that is the major deal. And under there you have
3 different levels of MPAs and what they do, from total
4 no access to very liberal access to the thing.

5 And this, in my mind, then plays with that,
6 because it says appropriate access. It's sustainable
7 use of the marine sources within the MPA. So I'm
8 comfortable with number 4 the way that it is and with
9 the addition of the definition of appropriate access.

10 DR. BROMLEY: Okay. Mike Nussman.

11 MR. NUSSMAN: Mr. Chairman, I would be brief
12 and say that the terms within the marine protected area
13 in fact give me a great deal of comfort. I'm not
14 supportive of taking those out and would disagree with
15 Mr. Zales and focusing on the term "appropriate."

16 DR. BROMLEY: Okay. I have Tony, Barbara,
17 Mike Cruickshank, Jim, Rod, Tundi and Dave. Tony?

18 DR. CHATWIN: Yeah, Mr. Chairman. I hear in
19 the discussions a lot of qualifiers and how we all
20 verbally acknowledge that there will be, you know, this
21 is for some MPAs but not for others. But I don't see
22 it explicit as we have spoken about it in the document,

1 you know.

2 I would -- I like the friendly amendment, but
3 I would also be okay with another verbal suggestion
4 that I heard here, which was marine resources within
5 the national system of marine protected areas. The
6 issue I have here is that this implies every marine
7 protected area. It can be interpreted to mean every
8 marine protected area no matter what the intention is
9 here.

10 And we've been very cautious about the
11 unintended consequences of language we choose. So if
12 we mean that within the national system, which is our
13 charge, and which is the goal of this section, you
14 know, this is all about the system, so let's be
15 explicit and say within the national system of MPAs.

16 DR. BROMLEY: So you're opposed to the
17 friendly?

18 DR. CHATWIN: No, I'm not opposed to the
19 friendly. I said I support the friendly --

20 DR. BROMLEY: But?

21 DR. CHATWIN: But I would settle for national
22 system. Let's be explicit.

1 DR. BROMLEY: Okay. Good. Barbara?

2 MS. STEVENSON: I have a process question. I
3 do realize that our subcommittee was not official, so
4 that I presume it was within Bonnie's purview to be
5 able to accept a friendly. I think it would have been
6 a lot better had we been able to deal with this as an
7 amendment.

8 If this is voted up, I understand what
9 happens. If this is voted down, what then happens?
10 Can we process-wise then propose the language that came
11 out of the committee?

12 DR. BROMLEY: Yes.

13 MS. STEVENSON: Okay. Because I have a lot of
14 problems with eliminating within marine protected
15 areas. It says appropriate access. Some access may be
16 scientific only. I assume we are not going to have an
17 MPA anywhere where there is no access, no monitoring,
18 no anything. So there will be access.

19 Whether the access is scientific only, whether
20 the access is commercial fishing only, whether the
21 access is no commercial fishing, oil and gas
22 extraction, I don't know. But there'll be something.

1 Because we're not going to have one that no one goes
2 in.

3 So I would also support another objective that
4 says throughout the whole system. But this is
5 particular to the individuals within the system. So I
6 do not support the friendly.

7 DR. BROMLEY: Mike Cruickshank.

8 DR. CRUICKSHANK: Thank you, Mr. Chairman. I
9 have no problem with that, as I said before, either
10 with or without. I think it's better with marine,
11 within the marine protected areas.

12 But it's the access is what is bothering me
13 that why don't we just take out within the framework of
14 sustainable use? Because that doesn't seem to do
15 anything but confuse it.

16 DR. BROMLEY: Okay. Jim?

17 DR. RAY: I have two comments. I still have
18 --

19 DR. BROMLEY: Wait a minute. I'm sorry, Jim.
20 George, I'm very sorry, but we're having a hard time
21 hearing.

22 MR. LAPOINTE: Sorry.

1 DR. BROMLEY: If you need to talk, we ask you
2 to go out in the hallway or something. I'm sorry to
3 say this. You're the host here. But come on, George,
4 shape up, will you?

5 (Laughter.)

6 DR. BROMLEY: I'm sorry. It was -- we need to
7 have one meeting here. All right. Who was speaking?
8 I'm sorry. Jim.

9 DR. RAY: Well, two points. And I go back to
10 the comment that Dave made about 20 minutes ago. And
11 also a comment that Max made.

12 I just have concern with, in this particular
13 item number 4, with the use of sustainable, because
14 although I heard what Max said, a lot of people
15 consider any mineral extraction, any oil and gas be a
16 nonsustainable. You know, you're using up the
17 resource. And so I just want to be careful we don't do
18 something that makes it exclusive, you know, excludes
19 that option.

20 The other point that was just made I think is
21 very important is that the definitions that are used
22 here may possibly become part of the criteria for which

1 existing MPAs or MMAs get accepted into the federal
2 system.

3 And I think we need to be careful about that,
4 because I would hope that what we are doing here is
5 setting part of, you know, or finalizing that filter as
6 to what will allow existing MPAs to come into the
7 system.

8 So we have to be careful as to what the
9 wording is here for that reason. Thank you.

10 DR. BROMLEY: Okay. Thank you. I have Rod,
11 Tundi, Dave, Bob Bendick, Terry and Bob Zales.

12 MR. BENDICK: Not me.

13 DR. BROMLEY: Not you, Bob. Okay. Rod is
14 next?

15 DR. FUJITA: Yes. Thank you, Mr. Chairman. I
16 like the friendly amendment for all the reasons that
17 have been articulated before. But hearing the concerns
18 of folks who -- I think we're trying to telegraph too
19 much meaning with too few words in this case.

20 You know, it's good to be succinct, but
21 sometimes we confuse matters. And even though we're
22 clear later in the document that some MPAs may have

1 multiple objectives and others have sole objectives,
2 let me offer some language that might help all of us to
3 accept this objective.

4 The objective would be to provide both
5 appropriate access to and sustainable use of marine
6 resources, but acknowledging that resource use within
7 or access to some MPAs may be restricted. I think
8 that's what we're trying to get to, this
9 acknowledgement that not all MPAs are the same. They
10 have different objectives, and access and use of
11 resources within them will vary, depending on the goals
12 and objectives.

13 DR. BROMLEY: Okay. Tundi?

14 DR. AGARDY: I'm still having trouble with
15 what we're really trying to achieve in this section, so
16 I still think that we are mixing apples and oranges and
17 that I really believe what we were trying to say here
18 is that the system has this overarching goal of
19 stewardship lasting protection. And to get at that
20 goal, the system itself has the following objectives.

21 There is no -- if we apply each of these
22 objectives to individual MPAs within the system, we

1 will not have a system in the end. Because they are
2 not going -- not all MPAs raise awareness and
3 knowledge. Not all MPAs protect cultural resources.
4 So we have a situation where I think what we're doing
5 is we're utilizing the tool of MPAs to get at these
6 objectives, which help us get to the goal of the
7 national system.

8 And, therefore, I really liked the wording of
9 objective 4, and I think we should keep that wording
10 except for the commercial thing, which I thought at
11 some point yesterday we struck from objective 4.

12 And rather than playing with that, I would
13 propose, although I won't make a motion or anything,
14 but my feeling is that we should add an additional
15 objective which says something like providing fair and
16 appropriate access to the nation's marine resources. I
17 see that as an objective of the system.

18 I agree with Tony completely that we do not
19 want to be misinterpreted to say that we think only
20 MPAs that provide access can be part of this national
21 system. Because we are not going to have much of a
22 system in the end.

1 DR. BROMLEY: Okay. Dave?

2 DR. AGARDY: I'm sorry. Can I just --

3 DR. BROMLEY: I'm sorry.

4 DR. AGARDY: I'm sorry. It was my fault. I
5 agree completely with what Jim said. I think we ought
6 to be thinking about these things as criteria. And in
7 that case, when we figure out the criteria for
8 nomination of sites or selection of sites, then I think
9 we can talk about all of the kinds of access and the
10 full range of marine protected areas.

11 But to me, this shouldn't be so problematic,
12 this section. I mean, this is really a pretty
13 straightforward section talking about what is our
14 vision for a national system.

15 DR. BROMLEY: Okay. Thank you, Tundi. Dave?

16 MR. BENTON: Very briefly, Mr. Chairman I
17 could support with the caveat that I still believe we
18 need to make a change in the definition of sustainable
19 or address those issues I raised. I could have
20 supported this without the friendly.

21 But with the friendly, and we're going to vote
22 it up or down, one way or the other, the way it's

1 constructed right now, I really have a problem with it
2 because I think -- and I'm listening to what Tundi is
3 saying about every -- it looks like that implies if you
4 went the other way, you know, the way it was, it looks
5 like it implies that means you have to have access into
6 every MPA.

7 I didn't interpret it that way myself. I
8 interpreted it to mean that appropriate access meant
9 given the purposes of the individual MPA, that may or
10 may not be appropriate for that kind of activity,
11 whatever that is.

12 Taken this way, I take that to mean all the
13 MPAs in the national system are going to be marine
14 reserves, and we've got a lot of other problems there,
15 and that doesn't work for me. So, Mr. Chairman, I just
16 wanted to signal my views.

17 DR. BROMLEY: Fine. Okay. I have Bob
18 Bendick?

19 MR. BENDICK: No.

20 DR. BROMLEY: No? I keep trying to get you to
21 the floor. Terry, Bob Zales and Steve Murray, and then
22 this is it.

1 MR. O'HALLORAN: Thank you, Mr. Chairman.
2 This is an interesting debate, and I've found myself
3 going back and forth, depending on who was talking at
4 the moment. But it seems that a system is made up of
5 these individual MPAs. That is what our system is.
6 And given that, I have no problem with leaving in
7 within marine protected areas, and in some ways I think
8 that that's appropriate to have it in there.

9 Perhaps a way to resolve this could be that we
10 would add a phrase that would be consistent with
11 established goals and objectives, which would mean that
12 if a goal and an objective of an MPA that is within the
13 system could be let's say set aside for pure scientific
14 research, so that we have, you know, we have these
15 kinds of sites that are untouched so that we can
16 understand what's going on, that would be the goal and
17 objective.

18 And in that particular case, appropriate
19 access would only be allowed by those scientists going
20 in there, and others who wanted to use that would not
21 be allowed.

22 The other point is, is that as we are

1 changing, or as we are playing with these definitions,
2 we've got to realize that appropriate access definition
3 down below talks about particular MPAs. It talks
4 about, and it does say that, consistent with the goals
5 and objectives of a particular MPA.

6 So I think that if we maybe perhaps move that
7 up into number 4, consistent with the goals and
8 objectives of the particular MPA, we might make some
9 progress.

10 DR. BROMLEY: Okay. You know, we have a
11 dilemma. It's an hour and 15 minutes we've been
12 talking about item number 1. And I'm happy to keep
13 going. I see hands keep coming up, but we've got to
14 get closure on this. So I have Bob Zales, I have
15 Steve, and then I drew a line, and now I have Wally and
16 I see more hands up. What am I to do?

17 MR. PETERSON: Since I'm the maker of the
18 motion, I'd like to accept some of these suggestions
19 and maybe move us on.

20 DR. BROMLEY: I'd love it.

21 MR. PETERSON: I'd like to say including both
22 appropriate access and sustainable use of renewable

1 marine resources would take care of the question that
2 some resources may not be renewable. And then leave in
3 within marine protected area, consistent with the goals
4 and objectives of the MPA. And then I think Rod can do
5 some magic down below on the definition of appropriate
6 access. We've said it does not include and so on. He
7 can put in this language down here about some MPAs may
8 include multiple objectives.

9 So I mean, I think this gets us by number 4
10 maybe, and we can handle the other definitional
11 questions down under the definition of appropriate
12 access. Then we don't have to revise sustainable use
13 and so on.

14 Anyway, that's my suggestion to amend my own
15 motion to pick up these suggestions and move us on.

16 DR. BROMLEY: We're in a procedural quagmire,
17 which I'm happy to be in, but we've got -- now I ask
18 someone to offer us wise rewording --

19 MR. ZALES: If Max has made that as a motion,
20 I'll second that for discussion.

21 DR. BROMLEY: So now we have an amendment --

22 VOICE: You've already got a motion on the

1 floor.

2 DR. BROMLEY: We have a motion on the floor.

3 DR. McCAY: If it would help, I would withdraw
4 the motion that's on the floor, but I don't think
5 that's --

6 DR. BROMLEY: This is a substitute. No, this
7 is a substitute motion for the one that's on the floor.

8 MR. ZALES: And I'll second.

9 DR. BROMLEY: So we have a second for a
10 substitute motion, and now we're discussing the
11 substitute motion.

12 MR. PETERSON: And could you repeat the
13 motion?

14 DR. BROMLEY: Yeah.

15 MR. URAVITCH: Do you want me to read it?

16 DR. BROMLEY: Yeah.

17 MR. URAVITCH: Okay. As amended:

18 Providing both appropriate access to and sustainable
19 use of renewable marine resources within
20 marine protected areas consistent with the
21 goals and the objectives of the particular
22 MPA.

1 DR. BROMLEY: Okay. Barbara?

2 MS. STEVENSON: That's worse.

3 DR. BROMLEY: That's worse.

4 MS. STEVENSON: Because --

5 DR. BROMLEY: Okay.

6 MS. STEVENSON: Oil and gas is totally
7 eliminated.

8 DR. BROMLEY: That's good. That's fine. I
9 want to vote on this right here. We don't need any
10 discussion. We've been discussing. I urge us to vote
11 on the substitute. Let's start dispensing with the
12 stuff. But I can't order you to vote.

13 MR. PETERSON: I would call for the question,
14 Mr. Chairman.

15 DR. BROMLEY: Call for the question. Thank
16 you. So what we're doing is we're voting on this
17 proposed language on the screen. Let's get it up or
18 down. Are you ready? All in favor --

19 MR. NUSSMAN: Mr. Chairman?

20 DR. BROMLEY: Yeah?

21 MR. NUSSMAN: I'm anxious to move forward. On
22 the other hand, I believe Max also included --

1 DR. BROMLEY: Included what? Microphone,
2 please.

3 MR. NUSSMAN: I believe Max included as part
4 of that some reference to Rod working on the language
5 below.

6 MR. PETERSON: Yeah. And we can take that up
7 separately.

8 MR. NUSSMAN: Okay. All right.

9 MR. PETERSON: It's a separate question.

10 MR. NUSSMAN: Partly because that's a separate
11 question, but it affects the first one. I'm not quite
12 sure what the hell I'm voting on.

13 DR. BROMLEY: Yeah, Mike. That's a fair
14 point. I'd like to see what we're going to do in the
15 second part. I think that's important. Are you ready
16 to -- can we put all of this to one side and let it
17 ferment a bit and move on? No? Okay. The question
18 has been called. All right.

19 DR. AGARDY: Sorry. But does the question
20 include the definition of access?

21 DR. BROMLEY: No. So we're asking you to vote
22 on this without seeing what Mike Nussman would like to

1 see down below.

2 MR. PETERSON: And we can debate that.

3 DR. BROMLEY: And we can debate it, yeah.

4 MR. PETERSON: When it comes time to it, we
5 can debate that.

6 DR. BROMLEY: Yeah.

7 MR. ZALES: If this is voted down, we go back
8 to the previous friendly amendment?

9 DR. BROMLEY: Yeah. If this is defeated, we
10 go back to the previous friendly amendment. Yeah,
11 Michael?

12 MR. NUSSMAN: And, Mr. Chairman, I think we've
13 just created a, with the renewable piece, a set that's
14 not being addressed. So I'm not sure how we're going
15 to address that either. So I just --

16 DR. BROMLEY: Yeah. Okay. Jim?

17 DR. RAY: The same question. It's excluded
18 consideration of the nonrenewable resources, so the
19 question hasn't been answered on that.

20 DR. BROMLEY: Yeah. Would you like to vote on
21 this that's on the screen.

22 DR. GARZA: We have to.

1 DR. BROMLEY: We have to. So let's vote. All
2 in favor of what's on the screen say aye.

3 (Chorus of ayes.)

4 DR. BROMLEY: Opposed?

5 (Chorus of noes.)

6 DR. BROMLEY: Fine. Okay. That's clear. Now
7 what do we do.

8 MR. LAPOINTE: Actually, I have a suggestion,
9 Mr. Chairman, and that's what I was chastised for
10 talking to my colleague and compadre Max about. If we
11 go back to the previous motion, clearly the friendly
12 amendment --

13 DR. BROMLEY: Which is the previous, George?
14 I'm sorry. The one that had been friendly amended?

15 MR. LAPOINTE: Yes. And what I was suggesting
16 to Max was that -- and I don't know how we do this from
17 a parliamentary perspective -- withdraw the friendly
18 amendment, make it a formal amendment, because then we
19 vote on the exclusion of within marine protected areas,
20 which was the essence of the friendly amendment.

21 And so we break -- that caused either a lot of
22 people either liked it or didn't. So we vote on that

1 phrase, and then we get back to the original motion,
2 which is the rejiggered objective for. And I think
3 that way we break those two questions apart and we can
4 get on with our discussion this morning.

5 But that takes -- I think -- I don't know how
6 you withdraw a friendly amendment. But that would be I
7 think the way to make -- split the question in essence
8 to get on with this.

9 MR. PETERSON: I think at this point, George,
10 you need to make that motion.

11 MR. LAPOINTE: Then I would split the question
12 into the approval of objective number 4 as it's been
13 redone. And the second question --

14 DR. BROMLEY: As it appears on the screen
15 right now?

16 MR. LAPOINTE: No. Well, the first question
17 would be do we strike or do we not strike the words
18 "within marine protected areas."

19 DR. BROMLEY: Okay.

20 MR. LAPOINTE: That's the first question. The
21 second question is the new -- the definition of number
22 4 as either modified or not modified by the first

1 split.

2 MS. STEVENSON: Second.

3 MR. PETERSON: Are you moving to strike the
4 words "within marine protected areas," George?

5 MR. LAPOINTE: I'm just splitting the
6 question. And so the first part -- the first split
7 would be -- the first motion would be to say do we
8 strike or do we not strike the words "within marine
9 protected areas?" And then after we answer that
10 question, we'll vote on number 4 either with the words
11 or without.

12 MR. PETERSON: You've got to move to either
13 strike or to leave it in.

14 MR. LAPOINTE: Then I would move to strike the
15 words "within marine protected areas." We get a second
16 on that. We call that question, then get on with the
17 other one.

18 DR. PEREYRA: Second for discussion purposes.

19 DR. BROMLEY: Okay. So now it reads, it's
20 been moved and seconded, two versions, 4(a), providing
21 both appropriate access to and sustainable use of
22 marine protected -- use of marine resources. That's

1 what we're voting on. Discussion?

2 MR. LAPOINTE: I would call the question
3 because we've discussed this to death.

4 DR. BROMLEY: Because you moved it.

5 MS. STEVENSON: I have a question on the
6 motion.

7 DR. BROMLEY: Okay.

8 MS. STEVENSON: A vote yes means that we go
9 back to the committee language?

10 MR. LAPOINTE: A vote yes means we strike --
11 the motion is to strike the words "within marine
12 protected areas" from what is listed as 4(a) on the
13 board.

14 MS. STEVENSON: So the motion --

15 DR. BROMLEY: 4(b) on the board.

16 MS. STEVENSON: Okay. But that doesn't make
17 --

18 DR. BROMLEY: Go ahead, Barbara.

19 MS. STEVENSON: Since the motion on the board
20 strikes it, yeah, it takes it out, then this motion
21 would have to be to put it back in, not to take it out.

22 MR. ZALES: Mr. Chairman, a point of order.

1 DR. BROMLEY: Jim Ray has been trying to get
2 in here as well. Jim?

3 PARTICIPANT: A point of order you need to
4 recognize, Mr. Chairman.

5 MR. ZALES: 4(b) should be number 4. And then
6 4(a) would be the friendly amended number 4. Then the
7 amended motion would be 4(a). And you've got that
8 corrected. In my mind, when you vote up or down 4(a).
9 If it says, then you discuss further. If it's
10 defeated, then you go to the original motion --

11 DR. BROMLEY: Which is 4.

12 MR. ZALES: -- which would be number 4.

13 DR. BROMLEY: Four. That's correct. Jim?

14 DR. RAY: Now that I'm thoroughly confused.

15 MR. LAPOINTE: Let me restate the motion.

16 DR. BROMLEY: Just a minute.

17 DR. RAY: Let me just throw out another one,
18 then you can stone me. I think one of the things
19 that's hanging up this whole issue of renewable or
20 nonrenewable here is the use of the word "sustainable,"
21 okay.

22 So if it was reworded to read something

1 providing both appropriate access and use of marine
2 resources within marine protected areas, it gets away
3 from the nuances of renewable versus renewable versus
4 non renewable.

5 It just takes out the word "sustainable"
6 there, which I know some people probably won't like.
7 But it's appropriate access and appropriate use of
8 marine resources within marine protected areas. So
9 that's another alternate.

10 DR. BROMLEY: Okay. George, now you may --
11 George?

12 MR. LAPOINTE: The formal motion is eliminate
13 4(a) for now, and it's from 4 to strike the words
14 "within marine protected areas." That is the motion.
15 And then if that passes or fails, we'll have an amended
16 motion and get on with the main question.

17 DR. BROMLEY: Okay.

18 DR. PEREYRA: Four doesn't exist, Mr. Chair.

19 DR. BROMLEY: Four doesn't?

20 DR. McCAY: We had the friendly amendment.

21 DR. BROMLEY: We had a friendly amendment to
22 4.

1 DR. McCAY: So we really have -- if I may
2 intervene here, the question would be to restore the
3 words "within marine protected areas" to the motion as
4 it currently stands.

5 DR. BROMLEY: Yes, David?

6 MR. BENTON: Mr. Chairman, the procedural
7 issues here are getting in the way of the substantive
8 discussion and voting.

9 DR. BROMLEY: They are. I know.

10 MR. BENTON: And what you have in front of you
11 now, what you have on the table is the amended main
12 motion, which is the motion that Bonnie made, amended
13 with a friendly amendment by Max. You can either vote
14 that up or down, or, you know, right now we sort of
15 have this confused motion to me -- I'm sorry, George,
16 but it's confused. It was seconded by Wally for
17 discussion purposes.

18 I personally would suggest withdrawing that
19 motion, because you've added a level of confusion.
20 Voting either -- and then a ruling from the chair, the
21 chair can rule that the amendment, the friendly
22 amendment could be withdrawn if they want to, or we can

1 vote it up or down. It gets to the same place, and
2 it's a lot simpler.

3 Because right now, I don't know which way -- I
4 don't know whether a yes vote means I'm accepting one
5 or the other or anything else. So that would be my
6 suggestion, Mr. Chairman.

7 DR. BROMLEY: We've got ourselves in a fix,
8 yes. I like what you propose.

9 MR. LAPOINTE: I guess with the recognition
10 with Bob's analogy of cereal, I am now in the Fruit
11 Loops Division of Kellogg's.

12 (Laughter.)

13 MR. LAPOINTE: And with the fervent hope that
14 we will call the question on the friendly amended main
15 motion, I will withdraw my motion.

16 DR. PEREYRA: I'll withdraw the second.

17 DR. BROMLEY: Withdraw the second. That gets
18 us partway there.

19 MR. PETERSON: Let me just withdraw the
20 friendly amendment so that we can get back to the main
21 motion.

22 DR. McCAY: I will withdraw my acceptance of

1 the friendly amendment and get back to the main motion.

2 DR. BROMLEY: Good. We're back to the main
3 motion.

4 DR. BROMLEY: Desperate times call for
5 desperate measures. Very good.

6 DR. McCAY: Number 4.

7 DR. BROMLEY: That is the motion, number 4.

8 MR. PETERSON: Just black out "marine
9 protected areas," please.

10 DR. McCAY: No, no.

11 DR. BROMLEY: No. Four is it. Four is the
12 original motion.

13 MR. PETERSON: Okay. That's clear. Let's
14 vote.

15 DR. BROMLEY: Okay. Four is the original
16 motion which modifies what's number 4 on page 3 of your
17 document.

18 DR. McCAY: Call the question.

19 DR. BROMLEY: Bonnie has called the question.
20 Yes, Bob?

21 MR. ZALES: Bonnie's called the question, but
22 I was going to go along with what Jim had said. I

1 would like to amend number 4 to remove "sustainable."

2 DR. BROMLEY: Okay. Is that a -- you may do
3 that.

4 MR. ZALES: Okay. Then I would like to amend
5 --

6 DR. BROMLEY: If you can get a second.

7 MR. ZALES: I would like to amend number 4 to
8 remove the word "sustainable." If I can get a second,
9 I'll explain why.

10 DR. BROMLEY: Could you take the darkness off
11 of it, please?

12 DR. PEREYRA: Second.

13 DR. BROMLEY: So it's been moved and seconded
14 to amend number 4 to take off the word --

15 MR. ZALES: Sustainable.

16 DR. BROMLEY: To take off the word
17 "sustainable."

18 MR. ZALES: Right. And actually it's to
19 change the language to guess would be so this would
20 probably be a substitute. It would be providing both
21 appropriate access and use of marine resources in
22 marine protected areas.

1 DR. BROMLEY: So you're offering a substitute?

2 MR. ZALES: Providing both appropriate access
3 and use of marine resources within MPAs.

4 DR. BROMLEY: Access to. Okay. Let's let
5 Lauren catch up with the language. That's good.

6 MS. WENZEL: We took out "sustainable," right?

7 MR. ZALES: Yeah. And you take out "to" after
8 "access."

9 DR. BROMLEY: No, you've got to have access
10 to. You've got to keep the "to" in, sorry,
11 linguistically.

12 MR. ZALES: Okay. Access to and use of.

13 DR. BROMLEY: There you go.

14 MR. ZALES: Okay. So just remove the word
15 "sustainable." And the reason why I do that is because
16 I think -- and like Jim, I think some people may have a
17 little bit of heartburn with that, but I believe that
18 solves the problem with oil and gas, which I've got
19 similar concerns, as does Dave, especially in the Gulf
20 of Mexico where we probably have more oil and gas stuff
21 going on than anywhere in the country.

22 And when you read further down into the text,

1 there's discussion where it says, "while some MPAs may
2 have multiple objectives, other may concern a sole
3 objective." And that's where I've gone with my analogy
4 of GM or Kellogg or however you do this. And I think
5 this is appropriate because to me, appropriate access
6 is just like Terry said earlier.

7 And I've said this the whole time I've been
8 playing with the MPAs. There could be areas of an MPA
9 that is going to be set up strictly for scientific
10 research, in which case, whoever is allowed in there is
11 going to be a research scientist, is going to have some
12 kind of badge or tag that says I'm a research
13 scientist, and when they go in there, the cop on the
14 water is going to say, okay, you can come in. But when
15 Kay runs in there to go fishing, he's going to say, you
16 don't have identification, you can't play here.

17 So that's going to solve that. The
18 appropriate access and use to me defines exactly where
19 that needs to go. And the in the definition that we
20 can play with. I mean, I'm happy with the current
21 definition that they came up with, but if they want to
22 play with some of that, I guess we can do that, too.

1 I would argue that this kind of solves most
2 everybody's problem anyway. It's not going to make
3 everybody happy, but it will make the majority.

4 DR. BROMLEY: Okay. So we have -- this is the
5 substitute, 4(a). Tony?

6 DR. CHATWIN: I'd like to ask whether the
7 maker of the motion could accept a friendly of adding
8 the language, "consistent with the goals and objectives
9 of the MPA?"

10 MR. ZALES: Yeah. I don't have a problem with
11 that.

12 DR. BROMLEY: The seconder. Who seconded it?

13 DR. PEREYRA: Yeah.

14 DR. BROMLEY: Wally seconded it.

15 MR. ZALES: And to me, I guess that more
16 clearly defines the goals, you know, the goal and
17 objective of a particular MPA. If you've got one set
18 up for whatever reason, and everything plays with it,
19 great, and if it doesn't, then you can kick it out.

20 DR. BROMLEY: Okay. Now it reads -- is that
21 okay, Bob? And the seconder approved it. So now the
22 substitute is:

1 Providing both appropriate access to and use of marine
2 resources within marine protected areas
3 consistent with the goals and objectives of
4 the MPA.

5 Are you ready for the question on this?

6 MR. ZALES: I'm ready, unless somebody else
7 wants to discuss.

8 DR. RAY: Question.

9 DR. BROMLEY: Yeah?

10 DR. RAY: Call the question.

11 DR. BROMLEY: Call the question. All right.

12 All in favor of 4(a) as it appears on the board, say
13 aye.

14 (Chorus of ayes.)

15 DR. BROMLEY: Opposed?

16 (Chorus of noes.)

17 DR. BROMLEY: Okay. Now it's 4(a), becomes 4.

18 DR. McCAY: Now we have to vote on it.

19 DR. FUJITA: Mr. Chairman, I just have a
20 clarifying -- I should have asked this before, but I
21 thought this section was about the goals and objectives
22 of the national system. Why does this one speak to an

1 individual MPA?

2 DR. McCAY: It was -- somebody pointed out,
3 the system is made up of individual MPAs, and this
4 pertains to them.

5 DR. BROMLEY: Yeah. I think we're okay there.
6 David?

7 MR. BENTON: Mr. Chairman, so we've done that
8 one. Now are we going to move to the access
9 definition?

10 DR. BROMLEY: Yes, we have to do the access
11 thing. Barbara?

12 MS. STEVENSON: We have to -- that was a
13 substitute.

14 DR. BROMLEY: A substitute, yeah.

15 MS. STEVENSON: So we have to vote on the main
16 motion.

17 DR. BROMLEY: We have to vote on the main
18 motion.

19 VOICES: No, no.

20 DR. BROMLEY: No, I think the substitute
21 preempts the main motion, Barbara. It's not an
22 amendment to, it replaces. That's my understanding.

1 Is that okay?

2 MS. STEVENSON: So it replaces the motion.

3 DR. BROMLEY: So now we have access. Bonnie?

4 DR. McCAY: I believe that we would -- my
5 motion, my original motion I would change to accept the
6 definition, but to change a little bit to say
7 appropriate access to and use of.

8 Because those two concepts are combined in the
9 -- I know that seems awkward, but either we don't do it
10 at all, or we have to do appropriate access to and use
11 of is the title of that glossary entry.

12 DR. BROMLEY: Can't we just say, I think if I
13 understand the sense of what you're offering, is this
14 heading would be appropriate access and uses?

15 DR. McCAY: Yeah, something like that.

16 DR. BROMLEY: Okay?

17 DR. McCAY: Yeah.

18 DR. BROMLEY: Is that okay?

19 MR. ZALES: And uses.

20 DR. BROMLEY: And uses. In the heading, I
21 would just add "and uses." Bonnie, is that all right?

22 DR. McCAY: Yes.

1 DR. BROMLEY: So now the heading is
2 appropriate access and uses. This is the definition,
3 right? Entry to and uses of an area considered for or
4 designated as an MPA within the framework of
5 sustainable use and consistent with the goals and
6 objectives of a particular MPA.

7 This does not -- I don't know if we need de
8 facto -- exclude or include any particular use. That's
9 going to be a definition in the glossary of access and
10 use.

11 Mike?

12 DR. CRUICKSHANK: It seems to me that that
13 framework of sustainable use just confuses the issue.

14 DR. BROMLEY: Which confuses? Within the
15 framework of sustainable use?

16 DR. CRUICKSHANK: Yes.

17 DR. BROMLEY: Yeah, well. We've got to go
18 back where we were. Other comments? Would it suffer
19 if we took out the clause "within the framework of
20 sustainable use?" Mark.

21 DR. HIXON: The definition of sustainable use
22 came from the work of subcommittee one. We spent about

1 a day on it. At that time, we considered nonrenewable
2 resources as fitting under our definition, because we
3 were talking about the long-term utilization of those
4 resources, and that was the agreement to which we came.

5 And I also point out that sustainable use is
6 under the primary goal of the system on page 3, line
7 15. So this is a fairly foundational definition that
8 was introduced quite a long time ago and accepted.

9 DR. BROMLEY: Okay.

10 DR. HIXON: I just want to point that out.

11 Thank you.

12 DR. BROMLEY: Good. David?

13 MR. BENTON: Mr. Chairman, a question for
14 Mark. How do you -- what does it then mean as a long-
15 term conservation of oil and gas, if that was your
16 query, if that was your express intent? Does that mean
17 a particular rate of production of oil and gas within
18 that MPA, or?

19 DR. HIXON: The idea was the long-term. Yeah,
20 it was the rate.

21 DR. BROMLEY: A rate of production of gas?

22 DR. HIXON: It was extracting it at a rate

1 that maxim -- let's see. That -- I'm just reading the
2 definition here. That enhanced the ecological, social
3 and economic viability of that resource.

4 MR. BENTON: You're not answering my question,
5 Dr. Hixon.

6 DR. HIXON: Yes I am. I'm trying to.

7 MR. BENTON: Go to the previous sentence. And
8 I don't have it right here in front of me, but I will.

9 DR. BROMLEY: I think the point Mark is really
10 -- the stock resource, there's no use rate which is
11 sustainable, technically.

12 MR. BENTON: That's exactly right. It says
13 the goal of conserving the long-term viability of that
14 resource. And if we're talking about a nonrenewable
15 resource such as oil and gas and trying to understand
16 how the MPA is going to regulate for the long-term
17 viability of oil and gas resources, is that a rate of
18 production, or was that not necessarily applied to the
19 nonrenewable resource?

20 DR. HIXON: I'd like to hear your alternative
21 wording, please.

22 MR. BENTON: Well, first I'm trying to

1 understand.

2 DR. BROMLEY: Okay.

3 MR. BENTON: You said that you guys considered
4 it.

5 DR. BROMLEY: That's fine. I've got Dave, you
6 just spoke. Jim Ray, Mike. Jim, go ahead. And Rod.

7 DR. RAY: I just think, you know, from the
8 energy sector, that the key thing is to be sure we
9 don't put words in that end up being exclusive, as in
10 excluding the oil and gas.

11 You know, and Mark, we had the discussion
12 about sustainable. You know, it's a subtlety that
13 people might misunderstand. For example, the way we're
14 regulated, we can't go in and maximally produce a
15 reservoir as fast as we can pump it, because if we do,
16 we'll leave a lot more in the ground than if we take it
17 out a measured slow rate. The agencies that regulate
18 us make sure that we don't do that because if we leave
19 20 or 30 percent in the reservoir that we could have
20 recovered, that's also lost money to the government.

21 So you know, it's managed in a way that you
22 get maximum recovery. It usually takes a longer period

1 of time, but that's a subtlety that most people don't
2 understand. So I just want to be sure that there's not
3 confusion over whether or not, you know, it's
4 sustainable production of the energy resource. It is a
5 finite resource, and over a period of time, you're
6 going to get to the point where you can no longer
7 recover what's left.

8 So I just want to be sure we just don't get
9 language in there that shoots us in the foot and ends
10 up excluding the ability to, as appropriate, go after
11 those resources.

12 DR. HIXON: Jim, you were there with us when
13 we came up with this definition. Can you look at the
14 definition now of sustainable use and come up with a
15 modification that addresses your concerns?

16 DR. RAY: I'll take a look at it.

17 DR. BROMLEY: Okay. Thank you. Mike
18 Cruickshank.

19 DR. CRUICKSHANK: I was going to say, the way
20 it's there, consistent with the goals of a particular
21 MPA covers the sustainable use issue.

22 DR. BROMLEY: Okay.

1 DR. CRUICKSHANK: And the other thing was that
2 I felt that we actually kind of glossed over the
3 question of energy and minerals during our discussions
4 in the sustainable use issue, because it's a major
5 issue -- when we're going to come to it.

6 DR. BROMLEY: We will come to it, I think.
7 It'll be Friday or Saturday, Mike, before we get there,
8 but we're going to do that.

9 DR. CRUICKSHANK: Not to say there are not
10 other major issues.

11 DR. BROMLEY: Yeah, yeah. Rod?

12 DR. FUJITA: Well, let me first say for the
13 record, I have no problem with excluding oil and gas
14 activities from certain marine protected areas. I
15 think that's a fully justifiable purpose of an MPA.

16 I also think that the confusion here -- I
17 actually, you know, upon close reading of the
18 definition of sustainable use in our document, I think
19 we're confusing the sustainability of the oil and gas,
20 which is essentially a nonrenewable resource, with
21 another use of the term "sustainability" in the context
22 of oil and gas exploration, which is about minimizing

1 the footprint of oil and gas facilities and minimizing
2 the environmental impacts of taking the oil out of the
3 ground.

4 The sustainable use definition actually
5 address this by saying conserving the long-term
6 viability of that resource with acceptable
7 environmental impacts.

8 I think that's the crux of the matter. That's
9 what they mean. I wasn't there, but I assume that
10 that's what they meant by putting oil and gas and the
11 use of nonrenewable resources within the framework of
12 sustainable use.

13 DR. BROMLEY: I think that clarifies. Okay.
14 I have Dave, then I have Jim.

15 MR. BENTON: Just, Mark had asked what my
16 alternative thoughts were, and Rod actually hit them
17 right on the head. I was thinking in my own mind that
18 a slight modification of the definition to get at the
19 point that he's making, which is where I thought they
20 were trying to go with sustainable use.

21 But in its presently drafted context, I think
22 it doesn't get there. So I think there's a very simple

1 fix. I've already got it ready to go as a proposed
2 amendment.

3 DR. BROMLEY: Okay.

4 MR. BENTON: Just wanted to signal that, Mr.
5 Chairman.

6 DR. BROMLEY: Let me call on Jim and then,
7 David, do you want to put your friendly amendment
8 forward? Let me call on Jim.

9 MR. BENTON: May I have a moment, Mr.
10 Chairman?

11 DR. BROMLEY: Yeah.

12 MR. BENTON: We have a motion on this, and I
13 would do mine as a separate motion after we're done
14 with this.

15 DR. BROMLEY: Okay. Jim?

16 DR. RAY: I just took a look at the
17 definition. I'm glad Mark reminded me to go back and
18 look at it. The way we actually worded it I think
19 resolved some of my concerns and issues.

20 And secondly, just in a comment to Rod, I
21 fully agree that there are particular MPAs for
22 particular uses that absolutely should exclude oil and

1 gas.

2 You know, there will be cases where that will
3 be the case, and I guess it's the appropriate use
4 discussion we had earlier. I would never suggest that,
5 you know, that oil and gas could go into any MPA and
6 develop in those areas. There's just some areas where
7 it would not be appropriate, and I would expect it
8 would not be allowed.

9 DR. AGARDY: You're on the record, Jim.

10 (Laughter.)

11 DR. RAY: No, that's fine. I would say that
12 to my companies, too.

13 DR. BROMLEY: That's right. That's a
14 reasonable position. Jim's a reasonable guy. All
15 right. What do we want to do? David says he has some
16 -- an amendment to this. Do we want to just -- David?

17 MR. BENTON: Well, Mr. Chairman, you have two
18 choices it strikes me. Right now I believe you have a
19 motion on the floor for this.

20 DR. BROMLEY: We do. Yeah, right.

21 MR. BENTON: If you want to take up my
22 definition of sustainable as a separate motion, you

1 could set aside temporarily this motion and I could
2 make it.

3 DR. BROMLEY: I misunderstood. I thought you
4 were going to modify this. Okay. Let's -- well, how
5 do people feel voting on this with yet a definition of
6 "sustainable" coming before you? You want to hear the
7 definition of "sustainable?"

8 MR. BENTON: Mr. Chairman?

9 DR. BROMLEY: Yes.

10 MR. BENTON: Without making a motion but to
11 signal what that definitional change might be --

12 DR. BROMLEY: Please.

13 MR. BENTON: -- that I think is fairly simple.

14 If you look on page 21, sustainable use, go to line
15 12, on line 12 it says "from that resource, with."
16 Striking the goal of conserving the long-term viability
17 of that resource, because that could be interpreted to
18 mean oil and gas.

19 DR. BROMLEY: That's right.

20 MR. BENTON: Okay. So then it would read:

21 "with acceptable environmental impacts." Drop down to
22 the next sentence, include the words "long term" after

1 "include" on line 14.

2 So that would read: "The goals of sustainable
3 use include long-term ecological, social and economic
4 viability." Because I didn't want to lose the notion
5 of taking the long haul vision.

6 That would be -- some change like that I think
7 accomplishes --

8 DR. BROMLEY: Could you do us a favor and read
9 it, David? Just kind of read your sentence.

10 MR. BENTON: I'll read the whole thing.

11 DR. BROMLEY: Slowly. And then Lauren is kind
12 of typing.

13 MR. BENTON: All right.

14 DR. BROMLEY: Read it slowly.

15 MR. BENTON: "The extraction and/or
16 utilization of a living or nonliving resource in a way
17 that enhances social and economic benefits from that
18 resource, with" -- and here's the strikeout --

19 DR. BROMLEY: Okay.

20 MR. BENTON: Strike out "the goal of
21 conserving the long-term viability of that resource
22 with" -- continue the sentence -- "acceptable

1 environmental impacts. In short, the goals of
2 sustainable use include" -- insert the words "long-
3 term" -- and continue the sentence with "ecological,
4 social and economic viability."

5 DR. BROMLEY: Thank you. That's nice. How
6 about I reread it now?

7 The extraction and/or utilization of a living or
8 nonliving resource in a way that enhances
9 social and economic benefits from that
10 resource, with acceptable environmental
11 impacts. In short, the goals of sustainable
12 use include long-term ecological, social and
13 economic viability.

14 DR. McCAY: Shall we table the motion to
15 approve the definition of appropriate access and uses
16 so that we can address this motion?

17 DR. BROMLEY: I'd be open to that.

18 DR. McCAY: Does the seconder agree to that?
19 Whoever that was.

20 DR. BROMLEY: Who was the seconder? Okay.
21 Bonnie moves to table the original so that we can
22 discuss this.

1 MR. PETERSON: I'll second that.

2 DR. BROMLEY: Max seconded. Okay.

3 MR. ZALES: It's nondebatable. You can vote
4 it up or down.

5 DR. McCAY: Okay. Vote.

6 DR. BROMLEY: What? I can't hear.

7 DR. McCAY: It's nondebatable.

8 DR. BROMLEY: Nondebatable. Right. So, all
9 in favor of tabling --

10 DR. McCAY: Tabling the previous, the
11 definition.

12 DR. BROMLEY: All in favor of tabling the
13 definition so that we may consider this point, say aye.

14 (Chorus of ayes.)

15 DR. BROMLEY: Opposed?

16 (No response.)

17 DR. BROMLEY: All right. David, thank you.

18 DR. GARZA: Abstain.

19 MR. BENTON: Mr. Chairman, I have a motion.
20 I've read my motion to you.

21 DR. BROMLEY: Wait a minute. Abstain, you
22 said? Okay. Yes?

1 MR. BENTON: Mr. Chairman, I read my motion to
2 you. You read it back. I'm moving that motion now, if
3 I have a second. I don't need to speak to it and we
4 can vote it.

5 MR. O'HALLORAN: Second.

6 DR. BROMLEY: Terry seconded it. I'll read it
7 again to you, okay? This is page 21, line 11, under
8 the heading sustainable use.

9 The extraction and/or utilization of a living or
10 nonliving resource in a way that enhances
11 social and economic benefits from that
12 resource, with acceptable environmental
13 impacts. In short, the goals of sustainable
14 use include long-term ecological, social and
15 economic viability.

16 MR. PETERSON: Call for the question, Mr.
17 Chairman.

18 DR. BROMLEY: The question has been called.

19 DR. PEREYRA: Mr. Chairman?

20 DR. BROMLEY: Yeah, Wally?

21 DR. PEREYRA: May I comment?

22 DR. BROMLEY: Yeah. Go ahead.

1 DR. PEREYRA: From a biological perspective, I
2 have some difficulties because --

3 DR. BROMLEY: Can you speak into the
4 microphone a little bit more?

5 DR. PEREYRA: From a biological perspective, I
6 have some difficulties in that sustainable use from a
7 biological standpoint is based on a recognition that
8 resources vary with time within certain environmental
9 parameters, and the sustainable use can only be
10 achieved by operating in a way that maximizes or
11 optimizes the extraction.

12 And that, you know, it's not, I mean, it's not
13 self-evident in the definition the way it's presently
14 being reconstructed. And I just -- I needed a minute
15 to think about that before I voted on this.

16 DR. BROMLEY: Okay.

17 DR. PEREYRA: I don't know if others have
18 similar concerns.

19 DR. BROMLEY: I'd like you to restate your
20 concern, please, Wally.

21 DR. PEREYRA: See, you can have long-term
22 economic viability, and you're still not operating in a

1 manner --

2 DR. BROMLEY: Is it the singularity of the
3 word "resource?" Would "resources" help you if it were
4 plural? The extraction and utilization of living or
5 nonliving resources in a way that enhances blah, blah,
6 blah? In short, the goals are. Okay? I mean, this is
7 very -- first of all, it begs the question, what is the
8 resource? But if we make it resources, does that help,
9 Wally? "The extraction and/or utilization of a living
10 or nonliving resources in a way that enhances" -- this
11 is not a formal motion. I'm just --

12 DR. PEREYRA: I'm thinking in terms of
13 probably a Magnuson Act, Magnuson-Stevens Act
14 perspective. But the word "enhance" is not as
15 meaningful to me as say a word "optimize." Because
16 "optimize" embraces both the physical side or the
17 maximization side and also the modify, as modified
18 appropriately by social and ecological concerns.

19 So, changing "enhance" to "optimize," it gives
20 me some --

21 DR. BROMLEY: You wouldn't be surprised if I
22 didn't like the word "optimize," would you, Wally?

1 DR. PEREYRA: No, I wouldn't be surprised at
2 all, because you're an economist, and economists have
3 different perspectives on life.

4 (Laughter.)

5 DR. BROMLEY: If I'm allowed to editorialize.
6 Mark?

7 DR. HIXON: Wally, remember when we had the
8 discussion on this definition, we considered "optimize"
9 for quite a while and decided to let it go, mostly
10 because it's a loaded word in terms of how it's applied
11 in a technical and scientific sense.

12 I mean, there's some point based on a set of
13 assumption that maximizes or minimizes some function.
14 And it's --

15 DR. BROMLEY: You can't optimize something
16 without knowing what it is you're trying to optimize.

17 DR. HIXON: Yeah.

18 DR. BROMLEY: Sorry.

19 DR. HIXON: I recall that we had talked about
20 that quite a bit and decided to let go. At the time,
21 the consensus we reached was "enhance."

22 DR. PEREYRA: Mr. Chairman, if I may?

1 DR. BROMLEY: Yeah.

2 DR. PEREYRA: I really want to talk to the
3 chair. It's possible to have sustainable use of a
4 resource, but that sustainable use can be at a very low
5 level because it's fished in an inappropriate manner,
6 and that's of concern to me. I think we need to manage
7 our resources and use them in a way that -- I like
8 maximization, but others have difficulty with that --
9 but at least optimizes the yield in a way that brings
10 about the greatest social benefit.

11 DR. BROMLEY: There's a guy raised on MSY I
12 can tell.

13 DR. PEREYRA: I was. I was steeped in it.

14 DR. BROMLEY: We'll try to disabuse of that.

15 DR. PEREYRA: I have a lot of MSY scores.

16 DR. BROMLEY: I know, Wally. We'll have to
17 drink a beer over MSY. But moving right along. David?

18 MR. BENTON: Well, Mr. Chairman, I was
19 thinking it might be time for a break if you fellows
20 want to discuss the word "enhance" versus "optimize"
21 because I'm ready to vote. But we've lost a lot of our
22 people. Do you want to wait or not?

1 DR. BROMLEY: If we don't vote, we're going to
2 lose more. So, do you think we're ready to vote on
3 this? What are we voting on? We're voting on the
4 highlighted stuff:

5 The extraction and/or utilization of a living or
6 nonliving resource in a way that enhances
7 social and economic benefits from that
8 resource, with acceptable environmental
9 impacts.

10 I'm not very happy with that little thing right there,
11 but --

12 In short, the goals of sustainable use include long-
13 term ecological, social and economic
14 viability.

15 DR. McCAY: Call the vote.

16 DR. BROMLEY: Ready to vote? All right. And
17 what you're voting on is what you see there. In other
18 words, it would strike out that -- and there's an
19 addition. Okay. All in favor of this rendering, say
20 aye.

21 (Chorus of ayes.)

22 DR. BROMLEY: Opposed? Okay. The ayes have

1 it. All right. Where are we?

2 MR. PETERSON: Mr. Chairman, I was going to
3 suggest that we let you put a plural on "resource" up
4 there and use the chairman's prerogative to make
5 "resource" plural.

6 DR. BROMLEY: Really?

7 MR. PETERSON: Yes.

8 DR. BROMLEY: My goodness. Do it. Consider
9 it done.

10 DR. HALSEY: Make it so.

11 DR. BROMLEY: Gosh, Max, such powers you pass
12 to me. Thank you.

13 MR. BENTON: Mr. Chairman?

14 DR. BROMLEY: Yes?

15 MR. BENTON: If you don't want to take a
16 break, I'm ready to make a motion to bring back on the
17 table the motion that was tabled.

18 DR. BROMLEY: I'd love that. I don't want to
19 take a break. I'm going to make this group sweat and
20 sit here and squirm.

21 MR. BENTON: All right. I move to bring it
22 back on the table.

1 DR. GARZA: That was on the amendment. We
2 still have the motion. So all we did is vote on
3 striking the words and adding long-term --

4 DR. BROMLEY: Thank you.

5 MR. PETERSON: She's correct.

6 DR. McCAY: Call the question.

7 DR. BROMLEY: Call the question on the main
8 motion then.

9 DR. GARZA: So if someone wanted to add or
10 delete something else now, we would have to make
11 another amendment.

12 DR. BROMLEY: Okay. Mike?

13 DR. CRUICKSHANK: Mr. Chairman, I'd like to go
14 back within the framework of sustainable use. I don't
15 see what the point of it there is, because it says
16 consistent with the goals and objectives of a
17 particular MPA, and if the goals and objectives are
18 laid out there, why do you need the additional within
19 the framework of sustainable use?

20 DR. McCAY: We're not addressing that part
21 right now.

22 DR. CRUICKSHANK: We're not?

1 DR. BROMLEY: No. We're down on the
2 sustainable use part.

3 MR. BENTON: Mr. Chairman, I'm unclear as to
4 the ruling from the parliamentarian, because my motion
5 was not a motion to amend a motion, My motion was to
6 change the language. And so it was a stand-alone main
7 motion. It was not an amendment.

8 DR. BROMLEY: That's correct. We tabled the
9 main motion to do this. We've dealt with this. Now we
10 have to take the main motion back off the table. Is
11 that correct?

12 MR. ZALES: Yes. Sustainable use is done.

13 DR. BROMLEY: Pardon me?

14 MR. ZALES: Sustainable use is done.

15 MR. BENTON: Sustainable use is done.

16 DR. BROMLEY: Do we have the sense of the
17 group that it's done?

18 VOICES: Yes.

19 DR. BROMLEY: Okay. It's done.

20 MR. ZALES: And should we vote to untable now
21 because Dave made the motion and I seconded?

22 DR. BROMLEY: That's correct. What are we

1 untabling?

2 DR. McCAY: This.

3 DR. BROMLEY: Appropriate access and uses.

4 Entry to and uses of an area considered for or
5 designated as an MPA within the framework of
6 sustainable use and consistent with the goals and
7 objectives of a particular MPA. This does not de facto
8 exclude or include any particular use.

9 And, Mike, that in a sense was your point.
10 You're not sure about the framework kind of?

11 DR. CRUICKSHANK: Yeah.

12 MR. LAPOINTE: We have to bring it back on the
13 table. We have to vote on the language first before we
14 discuss this.

15 DR. BROMLEY: Okay. Right. So let's vote on
16 bringing it off the table. All in favor of that say
17 aye.

18 (Chorus of ayes.)

19 DR. BROMLEY: Opposed? Okay. Now, thank you,
20 George. It went to my head, getting to add an "s" to a
21 word, just sort of blew me away here.

22 Okay. Here we are. You want to discuss it.

1 Mike fussed a little bit about within the framework of
2 sustainable use.

3 DR. CRUICKSHANK: Yes. I don't understand why
4 that's in there. It seemed to be redundant.

5 DR. BROMLEY: Okay. Good. Other comments?
6 Question? Rod?

7 DR. FUJITA: Yeah, I know it does seem
8 redundant to have within the framework of sustainable
9 use. The reason I like that there is because it's just
10 an added bulwark. There has been some -- there's a lot
11 of discretion within the words "consistent with the
12 goals and objectives of a particular MPA."

13 There are no standards. We haven't set aside
14 rigorous standards. We haven't, you know, created
15 accountability mechanism. So, there's been problems
16 with natural resource management around the use of
17 discretion with respect to defining what is or is not
18 compatible with goals and objectives. And to, you
19 know, to make clear that the uses that we're referring
20 to are sustainable uses I think is an important bulwark
21 against the abuse of discretion.

22 DR. BROMLEY: All right. Are you ready to

1 vote on this one?

2 MR. PETERSON: Yes. Call the question.

3 DR. BROMLEY: All in favor of this language
4 highlighted in green as an entry into the glossary,
5 right? Say aye.

6 (Chorus of ayes.)

7 DR. BROMLEY: Opposed? It carries. All
8 right. Bonnie, does that address everything under item
9 number 1?

10 DR. McCAY: Thank goodness, yes.

11 DR. BROMLEY: All right. Item number 2.
12 We've been only two hours on that one. No breaks. I'm
13 sorry. If you want a break, take it. But I'm holding
14 your feet to the fire now, guys. We're running short.

15 Item number 2. Max graciously offered some
16 language yesterday late. It's been distributed to you,
17 and it is item 2 on the outstanding issues handout that
18 you have. And Max offers both language and a
19 suggestion as to where it might go.

20 Max, I'll give it to you. Do you want to
21 introduce this as a motion as it's distributed?

22 MR. PETERSON: Yes sir. I'd like to introduce

1 it as a motion, but changing it slightly, because I
2 listened to people overnight. And so rather than say
3 the committee is unsure, just say the committee has not
4 completed a legal analysis to determine whether this
5 recommendation can be implemented under existing legal
6 authorities.

7 DR. BROMLEY: All right.

8 MR. PETERSON: That's a statement of fact.

9 DR. BROMLEY: We don't have it on the screen,
10 but you have it in front of you. The committee?

11 MR. PETERSON: The committee has not completed
12 a legal analysis.

13 DR. BROMLEY: "Completed" makes it sound like
14 we've started one, Max. It's not undertaken.

15 MR. PETERSON: Undertaken. Okay. That's
16 fine. Undertaken a legal analysis to determine whether
17 its recommendations can be implemented under existing
18 legal authorities. For this reason, we recommend the
19 Secretaries of Commerce of Interior have a legal
20 analysis completed to determine what additional legal
21 authority would be required or advisable to carry out
22 the committee's recommendations.

1 We're not telling them to go get legal
2 authority. We're not telling them that they shouldn't
3 proceed under existing authority. We're just saying we
4 don't know the answer to this question, and this just
5 spotlights that.

6 DR. BROMLEY: Could we shorten it a bit? I
7 mean, we're in the realm of friendly.

8 MR. PETERSON: Sure.

9 DR. BROMLEY: Let me just say, the committee
10 is not competent to judge, or the committee -- it's not
11 within our writ to do this or something?

12 MR. PETERSON: No. I don't think we -- we
13 have some attorneys on the committee.

14 DR. BROMLEY: Yeah, but they're not empaneled
15 to act as attorneys. And if they were, we wouldn't
16 listen to them. All right. So, Max, let me get your
17 language clear, and then we have some hands up. I'm
18 sorry.

19 The committee has not undertaken a legal
20 analysis as to whether its recommendations can -- is
21 that it, Max?

22 MR. PETERSON: Yes.

1 DR. BROMLEY: Okay. Analysis as to. So we're
2 striking "is unsure" and we're inserting "has not
3 undertaken a legal analysis." Is that correct, Max?

4 MR. PETERSON: Right.

5 DR. BROMLEY: Is that your motion?

6 MR. PETERSON: Right.

7 DR. BROMLEY: Has it been seconded?

8 MR. BENTON: Mr. Chairman?

9 DR. BROMLEY: Yes?

10 MR. BENTON: So this motion only deals with
11 that first paragraph on your sheet, Max, and not the
12 list?

13 DR. BROMLEY: It does not pertain to the list.
14 It is just that paragraph.

15 MR. PETERSON: Just this paragraph. And I
16 think down here where I spotlight places where it might
17 be edited, that's just places identified. I'm not
18 suggesting -- I don't have the language to do all that
19 down there. I'm just suggesting that the Executive
20 Committee or somebody --

21 MR. BENTON: I'll second his motion then, Mr.
22 Chairman.

1 DR. BROMLEY: All right.

2 MR. BENTON: I have problems with the list,
3 but I support the intent of the paragraph.

4 DR. BROMLEY: Okay. We're talking now only
5 about the paragraph on the top of the page. Bob Zales,
6 then Terry.

7 MR. ZALES: I have a problem with the term the
8 committee has not undertaken legal analysis. Because
9 even though like you say there may be attorneys sitting
10 here, I'm not sure that this committee is of the
11 ability to make a legal analysis.

12 So I would be more comfortable with like the
13 committee has not received legal analysis or some kind
14 of thing to where we haven't had any legal opinion as
15 to what we can or can't do.

16 DR. BROMLEY: Okay. Terry?

17 MR. O'HALLORAN: I would offer that in the
18 second sentence where --

19 DR. BROMLEY: Is this a friendly --

20 MR. O'HALLORAN: This would be a friendly
21 amendment.

22 DR. BROMLEY: Just air it out right now before

1 a friendly amendment. Just let us hear it.

2 MR. O'HALLORAN: A friendly amendment that
3 says on the second sentence where it says Secretaries
4 of Commerce and Interior have a legal analysis
5 completed to determine what additional legal authority,
6 if any, would be required or advisable. Because the
7 way this is stated, it sounds like there's an
8 assumption that there might be.

9 MR. PETERSON: I think that's a very good --
10 in fact, I had it written that way once. I would
11 accept that.

12 MR. BENTON: I'll accept it, Mr. Chairman.

13 DR. BROMLEY: Okay. So what additional legal
14 authority --

15 MR. PETERSON: If any.

16 DR. BROMLEY: Comma, if any --

17 MR. PETERSON: Comma.

18 DR. BROMLEY: -- would be required to carry it
19 out. That's kind of a friendly. Max, is that okay?

20 MR. PETERSON: Accepted. The second accepted
21 it.

22 DR. BROMLEY: Yeah, okay. Rod and then

1 George.

2 DR. FUJITA: Yeah. Another minor friendly,
3 Max. Did you mean has not undertaken a legal analysis
4 to determine whether its recommendation, singular, or
5 recommendations plural? In case we have more than one.

6 MR. PETERSON: That should be plural.

7 DR. BROMLEY: Thank you. Another "s" gets
8 added. George?

9 MR. LAPOINTE: In the realm of nitpicking, we
10 haven't done any analysis.

11 DR. BROMLEY: I know we haven't.

12 MR. LAPOINTE: So I would take legal out and
13 say we haven't done an analysis because we're
14 recommending they do the legal analysis, so.

15 DR. BROMLEY: That's what I was trying to -- I
16 mean.

17 MR. PETERSON: Okay.

18 DR. BROMLEY: Look, the committee has not
19 considered. I'm not offering specific language. I'm
20 just talking. The committee has not considered the
21 legality, the legal implications of our
22 recommendations. Is that right? We haven't addressed

1 them. So can't we say that?

2 MR. PETERSON: I think several of us have
3 struggled with that question --

4 DR. BROMLEY: Indeed, Max. But as a group, we
5 have not, nor were we asked to, I think. So --

6 MR. PETERSON: Well, what would you change
7 there, Mr. Chairman? I termed it a friendly amendment.
8 What would you suggest? Do you have a suggestion?

9 DR. BROMLEY: The committee -- David?

10 MR. BENTON: Mr. Chairman?

11 DR. BROMLEY: Yeah. Do you have a friendly,
12 David?

13 MR. BENTON: Well, no, I have a comment which
14 I think I believe that we have considered it in the
15 sense that we have generally discussed it. Concerns
16 have been raised by a number of folks around the table.

17 But we have not received a legal analysis, nor have we
18 been provided one, and we haven't really asked for one.

19 DR. BROMLEY: We haven't asked for one.

20 MR. BENTON: Exactly. So I think that the
21 wording should not be done in such a way that could
22 reflect that we haven't thought about this issue,

1 because we certainly have thought about the issue.

2 And I had one other point, Mr. Chairman, that
3 I wanted to raise. I can't recall whether I can
4 actually make a friendly amendment to an amendment I
5 seconded. I think I can, but --

6 DR. BROMLEY: Just talk to us.

7 MR. BENTON: Okay. It's in the first sentence
8 there, and I think it's our recommendations --

9 DR. BROMLEY: Yes. We got that.

10 MR. BENTON: -- can be fully implemented,
11 because perhaps some of them could and some of them
12 could not, but not all of them. And we may want to
13 consider adding the word "fully" implemented.

14 DR. BROMLEY: Okay. Yeah. I like "fully." I
15 like "fully." That's good, David. I think we have
16 some other work we've got to do, but "fully" is -- or
17 completely or whatever, but that's nice.

18 MR. PETERSON: Let me try to pick up those
19 suggestions.

20 DR. BROMLEY: Yes.

21 MR. PETERSON: And say the committee has not
22 requested or received a legal opinion --

1 DR. BROMLEY: Yeah. That's better.

2 MR. PETERSON: -- to determine whether its
3 recommendations can be fully implemented under existing
4 legal authority.

5 Because some of them obviously probably can.

6 MR. BENTON: And, Max, you considered those
7 all as friendlies?

8 MR. PETERSON: Yes, absolutely. If you'd
9 second it, we'd have one motion then without a bunch of
10 amendments. It might be to make it consistent in that
11 second sentence, "for this reason, we recommend the
12 Secretary have a legal opinion."

13 DR. BROMLEY: Yes, that's right.

14 MR. PETERSON: Or obtain a legal opinion.

15 DR. BROMLEY: The way we usually put it is
16 seek legal opinion.

17 MR. PETERSON: Yeah, or obtain a legal
18 opinion. These people work for them, so they can
19 obtain a legal opinion.

20 DR. BROMLEY: Okay.

21 MR. PETERSON: To determine. Take out the
22 word "completed." Okay?

1 DR. BROMLEY: And then another friendly from
2 the chair, if I may. After the word "whether," getting
3 back to David's sort of fully, whether all of -- if we
4 put in the words "all of" its recommendations can be
5 implemented?

6 MR. PETERSON: Its recommendations. Sure.

7 DR. BROMLEY: Is that okay?

8 MR. PETERSON: Sure.

9 DR. BROMLEY: "The committee has not requested
10 or received a legal opinion as to whether all of its
11 recommendations can be implemented under existing legal
12 authorities."

13 MR. PETERSON: Can be fully implemented. Put
14 the word "fully" before --

15 DR. BROMLEY: Okay. That was the fully.
16 Okay.

17 MS. WENZEL: Fully is here?

18 DR. BROMLEY: Yes. Fully implemented under
19 existing legal authorities. For this reason, we
20 recommend that the Secretaries of Commerce and the
21 Interior obtain a legal opinion what additional legal
22 authority, if any, would be required or advisable to

1 carry out the --

2 MR. PETERSON: I'm very happy with this. I
3 think it has what we want.

4 DR. BROMLEY: Do we have authorities in one
5 place and authority in another. Is that a problem?

6 MR. PETERSON: No, but --

7 DR. BROMLEY: Under existing legal authority
8 or authorities?

9 MR. PETERSON: You've probably got 20
10 different authorities they're working with.

11 DR. BROMLEY: It's okay like this? All right.
12 Now how do you feel about it? Yes, Michael?

13 DR. CRUICKSHANK: I just think to remove legal
14 opinion, make it legal opinion, because there are many
15 --

16 MR. PETERSON: What are you saying, Mike?

17 DR. McCAY: He's suggesting removing "a".

18 DR. CRUICKSHANK: Remove the "a" at the top as
19 well.

20 DR. BROMLEY: Legal opinion? Yeah, I think
21 that's better, Michael. Thank you. Take out the word
22 "a."

1 The committee has not requested or received legal
2 opinion as to whether all of its
3 recommendations can be fully implemented under
4 existing legal authorities. For this reason,
5 we recommend that the Secretaries obtain
6 -- take out "a" right there I guess, Lauren --
7 legal opinion to determine what additional legal
8 authority if any would be required or
9 advisable to carry out the committee's
10 recommendations.

11 How's that? Is that all right? This is one of the
12 more friendly versions we've had. Yes, Mike?

13 MR. NUSSMAN: Mr. Chairman, I think part of my
14 concern with regard to authorities, this I think goes
15 in the direction and answers the question. What I want
16 to do to complicate matters, feeling that's very
17 important that I do at this point, is to say that, you
18 know, when you look at a provision or a program, you've
19 got two parts, the legal authorities and then the
20 funding issue.

21 DR. BROMLEY: Mm-hmm.

22 MR. NUSSMAN: The funding's been raised

1 elsewhere, and I have, as with this, I think funding is
2 a key part of what we're doing, and I want to talk more
3 about that, and I sort of view it in the same way as
4 we're looking at this. I won't raise it now, because
5 it gets -- I think this can be handled as a separate
6 deal, but I think it's important that we address that
7 issue.

8 DR. BROMLEY: Good. Okay. All right. How do
9 you feel? Do you want to take some action on this one?
10 All right. Max, are you okay?

11 MR. PETERSON: I'm okay. And I agree with
12 Mike that we probably need to address funding, but I
13 think it ought to be a separate section.

14 DR. BROMLEY: Okay. Good.

15 MR. PETERSON: And I'll work with him on it.

16 DR. BROMLEY: All right. So the motion before
17 you is on the screen. All in favor, say aye.

18 (Chorus of ayes.)

19 DR. BROMLEY: Opposed? Wonderful. Max, you
20 have a recommendation about where it ought to go.
21 Section 1?

22 MR. PETERSON: I think I would put it I think

1 probably we're going, as we conclude this thing, you've
2 got a bunch of conclusions.

3 DR. BROMLEY: Yes.

4 MR. PETERSON: I think that ought to be one of
5 the conclusions probably.

6 DR. BROMLEY: You'd put it in the conclusions
7 section?

8 MR. PETERSON: I would.

9 DR. BROMLEY: As opposed to Section 1, line --

10 MR. PETERSON: It could be there either place.

11 I'll leave it to you all to decide where it goes.

12 DR. BROMLEY: Can I leave it to you to pull
13 this back for now and let's revisit where it goes
14 later?

15 MR. PETERSON: Right. Right.

16 DR. BROMLEY: David had some concerns about
17 all of the specifics down below. And I guess what I'd
18 like --

19 MR. BENTON: I have a motion, Mr. Chairman.

20 DR. BROMLEY: Yeah.

21 MR. BENTON: I have a motion if you're ready.

22 DR. BROMLEY: I'm sorry, what?

1 MR. BENTON: I said I have a motion on those
2 if you're ready.

3 DR. BROMLEY: You have a motion on them if I'm
4 ready. And if I'm not ready, what?

5 MR. BENTON: I will not do my motion because
6 you're the chairman.

7 DR. BROMLEY: All right. Let me have it,
8 David.

9 MR. BENTON: All right. Mr. Chairman, I would
10 move Max's recommendations numbers 3 and 4, and only
11 numbers 3 and 4, and if I have a second, I'll speak to
12 that.

13 DR. BROMLEY: By recommendations, you mean of
14 the list of six?

15 MR. BENTON: Of the list of six, I would move
16 his recommendations number 3 and 4.

17 MR. NUSSMAN: Second.

18 DR. BROMLEY: You'd like to move those? Okay.

19 MR. BENTON: Yes.

20 DR. BROMLEY: Go ahead.

21 MR. BENTON: Mr. Chairman, having looked at
22 this and given the language we just worked out, the

1 Executive Order is fairly clear in stating that it does
2 not provide new authorities to federal agencies and
3 they should rely on existing authorities.

4 We've already said we're not sure whether or
5 not we have the existing authorities. That's what this
6 paragraph accomplishes for at least all or part. But
7 there are a couple of places where Max's recommendation
8 I think improved the document, and those are the two
9 that I identified.

10 A planning process is a planning process. You
11 can get rid of utilize existing authority. That's item
12 number 3, if you look at page 10. And frankly, Mr.
13 Chairman, page 11, line 8 words are actually
14 contraindicated by the Executive Order itself, because
15 it does not provide the direct authority to set up a
16 national system. It provides direction.

17 And so I would just delete those words.
18 They're not necessary.

19 DR. BROMLEY: Okay. Good. Other comments on
20 this?

21 MR. PETERSON: Well, I think I agree with his
22 two recommendations, but I do not believe that we

1 should leave in, if you look on page 9, for example,
2 which is the first suggestion, we actually say the
3 actual designation and establishment of individual MPAs
4 within the system should be accomplished under existing
5 provisions of law.

6 And we don't know of any existing provision of
7 law that lets us do that for cultural and historical
8 MPAs, for example. Certainly the commissions don't
9 have that authority to establish historic and cultural.
10 They just said they didn't have it. So I don't think
11 we could recommend that we do all of this under
12 existing provisions of law. You might say to the
13 extent feasible or something like that.

14 MR. BENTON: Mr. Chairman, I see the point. I
15 have a motion on the table, and if there's a friendly
16 amendment that would modify the term "existing" in that
17 provision, I could certainly accept it as a friendly.

18 MR. PETERSON: Okay. I would agree to -- with
19 his motion if we add existing provision of laws to the
20 extent feasible or something like that.

21 MR. BENTON: To the extent allowed under
22 existing law would probably be the way to go.

1 MR. PETERSON: What did you say, David?

2 MR. BENTON: Hang on just a second.

3 DR. BROMLEY: You know what I'm going to ask?
4 I'm going to ask that Dave and Max have lunch.

5 MR. PETERSON: Okay. We'll do that.

6 MR. BENTON: That works.

7 MR. PETERSON: That works. We'll have lunch.

8 DR. BROMLEY: Okay. May I ask that? You had
9 a motion. Uh-oh. I'm out of order here. You had a
10 motion.

11 MR. BENTON: You're the chairman. You can't
12 be out of order.

13 DR. BROMLEY: Yeah, well, I like to think
14 that, but you guys keep reminding me otherwise. Is
15 that okay? Can you work out some of things?

16 MR. PETERSON: Sure. We'll work on it.

17 DR. BROMLEY: Beautiful.

18 MR. PETERSON: We'll do that.

19 DR. BROMLEY: We got a table, all right.
20 We're going to table David's motion.

21 MR. PETERSON: I'd move to table this until
22 after lunch.

1 DR. BROMLEY: All right.

2 MR. BENTON: Second.

3 DR. BROMLEY: All right. All in favor of
4 tabling, say aye.

5 (Chorus of ayes.)

6 DR. BROMLEY: Opposed? Okay. Good. It's
7 tabled. Don't let us forget to bring it off the table,
8 Max.

9 MR. PETERSON: We won't.

10 DR. BROMLEY: All right. Thank you. Okay.
11 We have an hour and ten minutes. We're going to take
12 an official photograph at 11:20. If you want your
13 picture -- if you want your mug to be permanently
14 memorialized in the official picture of this group,
15 make sure you're in the room at 11:20, okay? And
16 Barbara is going to make some comments and then we're
17 going to go.

18 So we basically have an hour and five minutes,
19 ten minutes. And now we come to the third major issue,
20 which is labeled here NEPA Process Cost and Benefits,
21 All Management Tools Considered. NPA is one tool of
22 many.

1 The genesis of this issue is that it was
2 brought into the discussion at the comment stage in
3 mid-April and the Executive Committee regarded it as a
4 new and potentially contentious issue, and so we put it
5 off to one side.

6 And so we have to address it. And I guess it
7 was introduced by Wally, for the most part. Yes, Jim?

8 DR. RAY: Mr. Chairman, I would just like to
9 make a request. I brought this up at previous
10 meetings, but for biological reasons I think, you know,
11 every two hours, two hours and 15 minutes, there ought
12 to be a short break. You know, right now we've got
13 people getting up and leaving through the conversation,
14 so people are missing parts of the conversation and
15 they're not able to -- then they've got to play catch-
16 up.

17 DR. BROMLEY: Good.

18 DR. RAY: I'd rather have the entire committee
19 here whenever we're having discussions so that
20 everybody's on board and hears what's going on.

21 DR. BROMLEY: Fair enough. Take a break.
22 That's fair enough.

1 DR. RAY: Thank you. I'd just like to make
2 the request.

3 DR. BROMLEY: No, that's right. I take it.

4 DR. RAY: Thank you.

5 DR. BROMLEY: I was out of order. The
6 difficulty with breaks is we lose 15 or 20 minutes,
7 because if you've looked at the roster after a break,
8 it takes us 15 or 20 minutes to get everybody back in
9 the room. I'm happy to take a break, but -- so, take a
10 break. Be back in the room in five minutes.

11 (A brief recess was taken.)

12 DR. BROMLEY: Here we are. Okay. We have one
13 hour. We're back in business. We have before us the
14 list of major and narrower issues which we would like
15 to work through, work down. And in a sense, we've
16 dealt with 1 and 2. And Max and David are going to
17 have lunch together and come back at a later time to
18 help us with the list of specific changes.

19 Items 3, 4, 5, 6 and 7 in a sense represent --
20 I should say -- well, all right. Item 3, let's look at
21 item 3. I'm sorry. I'm looking at something called
22 Outstanding Issues. Sorry, Dolly. It was a handout

1 from this morning. It's probably not in your packet.
2 Lauren passed it out earlier in the morning.

3 Thank you. Does everybody have one? Okay.
4 Is Wally here?

5 DR. PEREYRA: Yeah.

6 DR. BROMLEY: Late in the review process, as I
7 said, April 14th, 15th, four issues came in that the
8 Executive Committee felt took us beyond the realm over
9 which we had been able to have extensive discussion.
10 And one of them -- I don't have the specific language
11 here, but one of the interventions came in terms of I
12 guess costs and benefits and so on.

13 So what I would like to ask the individual who
14 made that proposal, I guess it's Wally, I'd like to ask
15 you, Wally, if you would please look at page 12, line
16 38. And page 12, line 45, and tell me exactly why, or
17 tell us exactly why you don't believe the language that
18 we have there addresses the concerns that -- I think it
19 was you -- that you raised, Wally.

20 DR. PEREYRA: Would you repeat again? Which
21 lines?

22 DR. BROMLEY: Look on page 12.

1 DR. PEREYRA: Right.

2 DR. BROMLEY: Line 38. And then a little bit
3 below, line 45. On line 38 we say: "The need for and
4 benefits from an MPA based on supporting materials from
5 the natural sciences, the social sciences and customary
6 local knowledge."

7 This is information about adding new sites.

8 "This would include an assessment of
9 alternative means to achieving MPA goals."

10 And then -- so, is the committee of the view
11 that the language on line 38 addresses exactly what it
12 is we believe? Because I'd like to see if some of
13 these issues that the Executive Committee thought
14 should be put off to the side can be left there.

15 And I know you don't have the specific
16 language that Wally or whoever it was proposed, but
17 rather than getting back in a discussion of specific
18 language, I'd just like to ask the question, whether
19 points number 1 and 3 on page 12 do an adequate job of
20 addressing the assessment of the impacts of the
21 creation of an MPA.

22 DR. PEREYRA: You're asking me?

1 DR. BROMLEY: Yeah. Well, I'm asking for
2 views.

3 DR. PEREYRA: Okay.

4 DR. BROMLEY: But, Wally, please.

5 DR. PEREYRA: I don't believe it does, and I
6 think that it is not inclusive enough. For example,
7 after "this would include," I think there would need to
8 be something added to the effect of, for example, a
9 statement of the problem being addressed by the
10 proposed new MPA.

11 I think that that would need to be added
12 there, because as I said yesterday, I believe that this
13 document is lacking in a more specific explanation of
14 the process that would be followed or needs to be
15 followed.

16 DR. BROMLEY: Are you saying our criteria or
17 our nomination language is insufficient?

18 DR. PEREYRA: Well, in this particular
19 location here.

20 DR. BROMLEY: Yeah?

21 DR. PEREYRA: On line 39.

22 DR. BROMLEY: I'm sorry. What?

1 DR. PEREYRA: In line 39, on page 12.

2 DR. BROMLEY: Right. Right.

3 DR. PEREYRA: There's a sentence: This would
4 include --

5 DR. BROMLEY: An assessment.

6 DR. PEREYRA: An assessment. Okay. I see.
7 This would include --

8 DR. BROMLEY: An assessment of alternative
9 means to achieving --

10 DR. PEREYRA: I would add --

11 DR. BROMLEY: But your language, as I recall,
12 Wally, was least cost instrument or something. Is that
13 right?

14 DR. PEREYRA: No. I had added there, I had it
15 ensure that this new site is a least cost alternative.

16 DR. BROMLEY: Right.

17 DR. PEREYRA: I modified that last night in
18 thinking about the concerns that you expressed from --

19 DR. BROMLEY: Yeah.

20 DR. PEREYRA: And ensure that a new site --
21 that the new site is the alternative achieving the
22 greatest net national benefit.

1 DR. BROMLEY: Greatest net national benefit.
2 Okay. Fair enough. Do you want to move that, or you
3 just want to?

4 DR. PEREYRA: I feel quite strongly that
5 there's a need to recognize that there are alternatives
6 to solving the problems that are trying to be
7 addressed. And the MPA may or may not be the best
8 alternative.

9 MR. PETERSON: Would you read that, Wally?
10 How you put it?

11 MR. ZALES: Read it again and make it a motion
12 and I'll second.

13 DR. BROMLEY: Well, at this point it's
14 friendly language, right, Wally? Unless you want to
15 move it.

16 DR. PEREYRA: I could make the motion and get
17 it on the floor.

18 DR. BROMLEY: Okay. Why don't you do that?

19 DR. PEREYRA: All right.

20 DR. BROMLEY: So he's amending line 39 I
21 guess.

22 DR. PEREYRA: I would amend the second

1 sentence on item number 1 adding new sites on page 12
2 to read as follows: "This would include" -- and here I
3 would add some new language -- "a statement of the
4 problem being addressed by the proposed new MPA," and
5 then it would continue -- "an assessment of the
6 alternative means to achieving the MPA goals and ensure
7 that the new site is the alternative achieving the
8 greatest net national benefit."

9 DR. BROMLEY: That's your motion?

10 DR. PEREYRA: That's my motion.

11 MR. ZALES: I'll second it.

12 DR. BROMLEY: Is there a second?

13 MR. ZALES: I'll second.

14 DR. BROMLEY: Bob, Tony and Mike.

15 MR. BENDICK: I have no objection to the first
16 part of the amendment, although I think on page 11 in 3
17 and 4, we do require a clear definition of the problem
18 or threat being addressed, and I think that is taken
19 into account in our process.

20 Secondly, I do object to the sort of measure
21 of national net benefit. It opens such an unlimited
22 field of opportunities that I don't know how with any

1 rigor you actually asses that.

2 We could say here consistent with the intent
3 of the National Environmental Policy Act, which I think
4 covers all that ground and which might address Wally's
5 concerns. I know that was mentioned somewhere along
6 the line.

7 DR. BROMLEY: Okay. Thank you. Tony and then
8 Mike, and then I'd like to, if I may, from the chair,
9 I'd like to make an observation.

10 DR. CHATWIN: I'll pass.

11 DR. BROMLEY: If I'm allowed to. Am I allowed
12 to make an observation from the chair? Maybe not.
13 Maybe I shouldn't. Go ahead. Tony?

14 DR. CHATWIN: I'll pass, Mr. Chair.

15 DR. BROMLEY: Mike?

16 DR. CRUICKSHANK: Okay. I had some language
17 to address that and a location for it.

18 DR. BROMLEY: You have what, Mike?

19 DR. CRUICKSHANK: Some language to address
20 this NEPA thing and a location for it.

21 DR. BROMLEY: We have a motion on the floor,
22 Mike.

1 DR. CRUICKSHANK: Is there discussion of the
2 motion? It's relevant to the motion.

3 DR. BROMLEY: Okay. Can you just convey it to
4 us as an idea?

5 DR. CRUICKSHANK: Yeah. As an idea, okay.
6 Page 4, you have objectives should be accomplished in a
7 way that, and then on the bottom there at (f) responds
8 to the requirements of the National Environmental
9 Policy Act or equivalent protective measures designated
10 under state or local rule or regulation.

11 And that brings in the NEPA process.

12 DR. BROMLEY: Which I'd prefer to leave out,
13 but that's just me. Okay? I don't know we need to
14 anchor this to anything. But that's just my editorial
15 observation.

16 George?

17 MR. LAPOINTE: I think my sentiments are much
18 like yours, Mr. Chairman.

19 DR. BROMLEY: Do what?

20 MR. LAPOINTE: My thoughts are like yours. I
21 don't -- the reference to NEPA strikes me as, if we're
22 going to reference federal law, we should reference

1 them all.

2 And I think because we're making
3 recommendations to the Secretary, they'll come under
4 the rubric ESA, MPA -- I mean MMPA, sorry, Freudian
5 slip. Yada, yada, yada, yada, you know, the Data
6 Quality Act, et cetera. And so I don't favor its
7 inclusion unless we put them all in there, and I don't
8 think we need to do that.

9 DR. BROMLEY: Okay. John Halsey.

10 DR. HALSEY: Well, I think there are quite a
11 number of MPAs created at the state level. We
12 certainly have some in the Great Lakes that never would
13 -- that would certainly be valuable parts of a national
14 system but would never trigger any kind of NEPA action.
15 So I see it as not necessary.

16 DR. BROMLEY: Okay. Wally?

17 DR. PEREYRA: Yes, Mr. Chairman. That is the
18 reason why I wanted to have some specific language in
19 here with process, because I think, again, if you
20 reference NEPA, that is just the federal actions.

21 And I think there's a need to recognize that
22 even within state jurisdictions, recently there have

1 been some rather controversial MPA-type activities or
2 MPA-type processes that have gone on that I would say
3 are probably not as thorough in terms of how the siting
4 was done as you have in a federal NEPA process with
5 alternatives looked at and least cost alternatives.

6 That's the reason why when I sent my memo in April
7 to you that I had specific language in there that -- I
8 didn't address NEPA specifically, but I put language in
9 that I thought would be useful. I mean, any NEPA --
10 any MPA siting activity that might take place in a
11 state or tribal or anywhere.

12 DR. BROMLEY: Okay. Am I allowed to turn the
13 chair over to Bonnie so that I may make an observation
14 on this language? What should I do?

15 MR. PETERSON: Yes sir.

16 DR. BROMLEY: May I speak in a substantive
17 way?

18 MR. PETERSON: Yeah. Turn it over to Bonnie
19 and you can talk all you want to.

20 DR. BROMLEY: Bonnie, would you object? Would
21 you recognize me?

22 DR. McCAY: (Chair.) Oh, yes. I recognize

1 you, Dan.

2 (Laughter.)

3 DR. BROMLEY: Wally, I'm terribly concerned
4 about greatest net national benefit. This is an idea,
5 it's a set of words that have no coherent mapping into
6 anything knowable, and let me leave it at that.

7 This language is impossible. You're asking
8 for something that is impossible. I'm sorry, from an
9 economic perspective, if I may speak as an economist.
10 Anybody who tells you they can do that is smoking
11 something illegal.

12 (Laughter.)

13 DR. McCAY: Dave?

14 MR. PETERSON: Why don't you just say what you
15 mean?

16 (Laughter.)

17 MR. BENTON: Madam chair. I don't have to say
18 Mr. Chairman anymore. Madam chair.

19 DR. BROMLEY: When do I get this office back?

20 (Laughter.)

21 MR. BENTON: Bonnie, seize the power.

22 DR. McCAY: I've got it.

1 MR. BENTON: Feel the power.

2 DR. McCAY: Yes, Dave.

3 MR. BENTON: I'm not necessarily ready yet to
4 make this as a motion, but it strikes me, and I'm
5 looking over at Wally to see his reaction to this, but
6 what I think he's trying to get at here is that any new
7 site is sort of judged as to whether or not that is the
8 best way to go to address a particular concern,
9 resource management concern.

10 And as part of that, one part of that that I
11 think is very important is that these -- the new MPAs
12 be judged as to whether or not they have been designed
13 so that they minimize the adverse social economic
14 impacts while meeting sort of the resource management
15 goal you're trying to set the thing up for. And I'm
16 just wondering if there's an alternative way of trying
17 to get at the issue that Wally has identified here with
18 the term "net national benefit," Mr. Chairman.

19 DR. BROMLEY: Who's the chairman here?

20 DR. OGDEN: Bonnie is still chair until you
21 get the gavel back. You're in trouble.

22 MR. ZALES: In reference to what Dan has said,

1 and I can call him Dan now, because he's no longer
2 chair -- I agree with a lot of what he said, but at the
3 same time in my experience of being regulated and
4 dealing with the regulatory process, I would argue that
5 in many cases the economics of what regulations are
6 based on are at times probably impossible to do, and in
7 most cases have been very limited.

8 And I'm not sure -- I can't remember if we
9 have the term to the extent practicable in this stuff,
10 but at some point I suspect that --

11 DR. BROMLEY: We do.

12 MR. ZALES: And if that's the case, then even
13 though economics may not be absolute for what is going
14 to be done to make this assessment, to the extent
15 practicable, that argument could be made that it could
16 be put in there.

17 And so I would support this stuff that Wally's
18 laid up there because of that reason. And we would all
19 love to have absolutes in everything that we do, but in
20 fishery management for sure and anything to do with
21 MPAs and anything like that, I haven't seen anything
22 yet that is pretty much absolute.

1 So I would argue that even though that you may
2 not be able to find exact numbers for these assessment
3 that you will be able to have something produce that
4 some economist, some social scientist, somebody will
5 come up with something to say, well, this is how it
6 could be, given all this information.

7 So I would support Wally's motion.

8 DR. McCAY: Okay. Terry?

9 MR. O'HALLORAN: Thank you, Madam Chair.

10 DR. BROMLEY: It sounds -- it has a nice ring
11 to it.

12 MR. O'HALLORAN: Madam Bonnie. Yes, I like
13 that.

14 DR. McCAY: Mademoiselle, too.

15 MR. O'HALLORAN: Mademoiselle. You know, I
16 understand Wally's concern about MPAs as being one of
17 many possible solutions to a particular issue or
18 problem and which needs to be dealt with.

19 It seems that whatever that group is that is
20 dealing with that problem, if they would choose to use
21 other means, other than an MPA, in which to find
22 solutions to those problems, that they would not be

1 entering into things that are in this document. In
2 other words, they would not be entering into the realm
3 of an MPA.

4 And so to have language in an MPA document
5 that deals with alternatives that don't relate to an
6 MPA, such as, you know, if it's a fishing issue dealing
7 with bag size limits or whatever that might be as a
8 solution to that particular problem, they don't get
9 into the realm of an MPA. So I guess I'm just
10 wondering how serious of an issue that is, because they
11 would -- that decision would be made by that group and
12 not through a group that's with an MPA.

13 DR. McCAY: Okay. Next on the list is Dan.

14 DR. BROMLEY: Bob, I don't doubt that you
15 could find an economist who would give you a number. I
16 live with them, and we all have our price. And if you
17 pay an economist enough, she'll give you exactly the
18 number you'd like.

19 (Laughter.)

20 DR. BROMLEY: And the Exxon Valdez fiasco is
21 the very best evidence of that, okay. Economists are
22 -- we respond to price incentives.

1 More seriously, it seems to me that item 1
2 addresses -- this would include an assessment of
3 alternative means to achieving MPA goals. Item 3 says
4 the economic effects of the proposed MPA, including
5 both monetary and nonmonetary effects. This will
6 include evidence that the adverse social and economic
7 implications for users of the marine environment have
8 been considered and are, to the extent practicable,
9 minimized.

10 I find no problem with the existing language.

11 DR. McCAY: Tony?

12 DR. BROMLEY: And, therefore, I'm speaking
13 against --

14 DR. CHATWIN: I was going to point to the
15 language in number 3 as well that addresses the issue
16 of economic impacts. And also, I'd like to -- I have
17 trouble identifying a law or set of regulations out
18 there that calls for a decision to be based on the
19 least cost alternative. I don't see any precedents.
20 NEPA doesn't call for that.

21 DR. PEREYRA: Yes it does.

22 DR. CHATWIN: No it doesn't. It calls for

1 examining a range of alternatives. And so I just --
2 that's what I would like to add. Thank you.

3 DR. McCAY: Wally?

4 DR. PEREYRA: Yes. I'd just like to thank the
5 committee members for their constructive comments. And
6 I do think that this is an important issue in the NEPA
7 process you certainly do look at alternatives, but you
8 select that alternative which is considered to bring
9 the greatest benefit in solving the problem and at the
10 least cost.

11 As a practical example of what I'm talking
12 about here, in North Pacific where I have had a fair
13 amount of experience, we had a situation come up where
14 there was a serious issue regarding bycatch of salmon
15 in the Pollock fishery. And it was proposed that an
16 MPA-type MMA be put in place to close off an area where
17 salmon bycatch had been found to be fairly high,
18 although it varied in time and space.

19 Upon further examination, it was determined
20 that a more useful alternative to establishing that MPA
21 as a restrictive zone would be to utilize the
22 cooperative arrangement which could establish in the

1 Pollock fishery and establish a civil contract between
2 the members of the cooperative that made them
3 responsible for coming up with a means to reduce the
4 amount of salmon bycatch, which was done, and which
5 turned out to be a much more effective way of dealing
6 with this particular problem than putting in an MPA.

7 And that's sort of what I'm getting at, is
8 that we need to have a process which flows from the
9 problem through to a solution, and the MPA in many
10 cases is going to be the solution. And a marine
11 reserve in many cases is going to be a solution.
12 But there will be other possibilities that might offer
13 greater benefit at least cost, at a lower cost to the
14 participants, to the environment and so forth.

15 And all I'm asking is that there be included
16 in here some recognition that that is a process that
17 needs to be followed, and that we don't just all of a
18 sudden have, as has been proposed in some circles, that
19 we just set aside 20 percent of the world's oceans and
20 everything is going to be fine. Well, that's, you
21 know, that's not realistic and it's probably not in the
22 best interests of the ocean either to proceed in that

1 manner.

2 DR. PEREYRA: So that's where I'm coming from.

3 VOICE: Nobody suggested that, Wally.

4 DR. PEREYRA: And greatest net national
5 benefit, I agree that that's a term that probably
6 should not, you know, should not be entered into this
7 document. But I do think that some recognition of this
8 process and the benefits and costs and minimization and
9 maximization should be in there in some form.

10 DR. McCAY: Perhaps while we're discussing
11 this, Wally, you might think of some -- come up with
12 some alternative language.

13 Steve?

14 DR. MURRAY: I think we're getting off in the
15 wrong place here. I mean, I think our job here is to
16 create a framework, not to dictate what outcomes are
17 going to be. We've come through here and identified a
18 regional process with very open participatory
19 inclusion, with stakeholder inputs, with all of these
20 kinds of inputs that are going to go into a regional
21 focus and determining what goes or doesn't go.

22 And so the wording that we have here about

1 adding new sites I think is completely consistent with
2 that approach. We're indicating that an assessment of
3 alternative means of achieving MPA goals is to be done.

4 We're indicating that the need for and benefits from
5 an MPA based on supporting materials, from natural
6 sciences, the social sciences and customary local
7 knowledge is to be done.

8 We're indicating the economic effects of the
9 proposed MPA, both monetary and nonmonetary effects are
10 to be assessed. That's all to be done in a regional
11 process, open participatory, within which decisions are
12 to be made about whether MPAs will or will not be used,
13 completely consistent with our job.

14 Putting that last clause on that sentence up
15 there I think is completely inconsistent with that
16 posture.

17 DR. McCAY: Bob Bendick.

18 MR. BENDICK: I pass for now.

19 DR. BROMLEY: Okay. Rod?

20 DR. FUJITA: Yes, thank you, Madam Chairman.

21 I agree with Steve Murray. But I do understand Wally's
22 concerns, because these are the same concerns that

1 arise in every MPA process I've ever been associated
2 with.

3 People have a justifiable concern that MPAs
4 are the best tool to address a particular problem and
5 not be a solution in search of a problem. So let me
6 propose, Wally, and see if you like this, that the
7 document -- let's zoom out a little bit and consider
8 other aspects of the document that may address these
9 concerns.

10 On page 1, which is the likeliest page that
11 anybody will read --

12 (Laughter.)

13 DR. FUJITA: -- we have the two paragraphs at
14 the end there under Benefits of a National MPA System
15 that made clear to me that MPAs are to be considered
16 one of many tools that can be used, right? So that
17 should address your concern that we fully consider
18 alternative means to achieve MPA goals. And that's
19 further reinforced by our language at page 12 in bullet
20 1.

21 In addition, I think we've addressed the need
22 to ensure that economic and social adverse impacts are

1 minimized by our bullet 3. We also have at page 12 on
2 line 16 a reference to adaptive management, which is
3 intended by the subcommittee to encompass and address
4 this problem of increased knowledge about alternative
5 means, to determine whether an MPA is indeed the best
6 way to achieve the stated goals and address the
7 problem.

8 And I think that that provides a mechanism to
9 address the kinds of problems that you've brought up,
10 Wally, where changing knowledge, changing costs require
11 a change in management measures.

12 DR. McCAY: Next on the list I have Tony.

13 DR. CHATWIN: I'll pass.

14 DR. McCAY: Okay. Dolly?

15 DR. GARZA: Thank you, Madam Chair, and I also
16 intend to vote against the proposed amendment. And I
17 have the same issues with the greatest national
18 benefit. And speaking from the subsistence or
19 customary side, we would always lose. It's just as
20 simple as that.

21 And there are MPAs that will be proposed or
22 have been proposed to protect ceremonial sites, to

1 protect dive sites, to protect things that don't
2 necessarily have an economic value that can be weighed
3 against using a natural resource. And so, I think that
4 this hems it in. It narrows it down and limits the
5 opportunities for MPA uses when I think those types of
6 checks and balances are elsewhere in the document.

7 Thank you.

8 DR. McCAY: Mike Nussman?

9 MR. NUSSMAN: Thank you, Madam Chair. First
10 say that I, in listening this is an interesting debate,
11 and I learn something from each person that speaks. I
12 certainly support Wally's amendment, although I'm not
13 sure I support exactly the words that he has used here,
14 but the concept is one that's clearly coming from
15 appealing on by many people in our -- the recreational
16 and commercial fishing community that in fact there is,
17 if we have a, you know, the only tool you've got is a
18 hammer, everything looks like a nail as it applies to
19 MPAs.

20 And I think what we're looking for here or
21 what Wally's looking for here is a very clear statement
22 that the alternatives are firmly examined and are

1 rejected before we go to the idea of a marine protected
2 area, understanding full well that in many instances,
3 marine protected areas are going to be the best use of
4 -- or the best way to address specific issues.

5 So, with that, I'll listen to the next
6 commenter. Thank you.

7 DR. McCAY: Great. We have a few more people
8 on the list. We'll try to get through those, but I
9 think we should come to closure very soon. I have Dave
10 next and then Bob, Kay, John and George. And Mark.
11 Okay.

12 MR. PETERSON: Do you have me?

13 DR. McCAY: Okay, fellows. All right, Dave,
14 it's yours.

15 MR. BENTON: Well, I was actually prepared to
16 amend Dr. Pereyra's proposal in a way to try and get us
17 beyond, but it sounds like you have so many people that
18 want to debate it, I don't know whether I want to make
19 the amendment yet or wait till all this goes around
20 another time before we get to it.

21 So I'm going to look at the chairs for some
22 guidance here. Because I think there's a way to

1 clarify this --

2 DR. McCAY: Well, I think it would be good if
3 you would offer, at least offer your idea that this
4 point.

5 MR. BENTON: All right. My ideas would be
6 that, given the discussion, that you would strike the
7 words "achieving greatest net national benefit" at the
8 end, and that you would amend that language to read in
9 that last clause -- and don't do that yet.

10 MS. WENZEL: All right.

11 MR. BENTON: I can't read it when you do that
12 from back here. And support a conclusion that the new
13 site is a preferred alternative for addressing the
14 problem.

15 And what we're talking about here is an
16 analysis -- we're talking about a nomination. So it's
17 a documentation of why the thing is being put forward
18 as a site and what's all the supporting evidence.

19 So if you identify a problem and you do it --
20 the burden should be on the nominator to have an
21 analysis that goes along with this and a rationale of
22 here's why this is the best thing to support it as the

1 preferred alternative for addressing the problem that's
2 to be dealt with.

3 That's what I'm trying to get at. I'm not
4 sure I got the words exactly right, but that's what I
5 was thinking.

6 DR. McCAY: Perhaps Wally could think about
7 that while --

8 DR. PEREYRA: I second it.

9 (Laughter.)

10 DR. BROMLEY: It doesn't take Wally long to
11 think.

12 DR. McCAY: Okay. We don't have specific
13 language, or do we there?

14 MR. BENTON: Do you want me to make it as a
15 friendly amendment, Wally?

16 DR. PEREYRA: Yes.

17 MR. BENTON: I'll do it right now. Okay. Do
18 you want me to do that?

19 DR. PEREYRA: Yes.

20 DR. BROMLEY: Who seconded Wally's motion?
21 Point of order.

22 DR. McCAY: We need to know what it is first.

1 MR. BENTON: Who seconded Wally's motion?

2 MR. ZALES: I did.

3 MR. BENTON: Okay. Are you okay, Bob, with
4 this? Sorry.

5 DR. McCAY: Okay. So we're looking at --

6 MR. BENTON: All right. Let me then go here,
7 Madam Chair. So it would read, starting on the third
8 to the last line where it starts "assessment of the
9 alternative means to achieving MPA goals, and supports"
10 -- okay. Now, see, I can't read it when she does the
11 --

12 MS. WENZEL: I know. I'll be quick.

13 MR. BENTON: Okay. "And support the
14 conclusion" -- I'm not sure I got this right. Give me
15 five minutes here to work on it some more if I can.

16 DR. McCAY: Okay.

17 MR. BENTON: All right? Give me a moment.
18 Let it go around for a little bit and I'll --

19 DR. McCAY: Let's keep going here. Bob Zales,
20 you're next.

21 MR. ZALES: Yeah. And I believe the language
22 they come up with is probably going to be acceptable.

1 I just wanted to make the point that in the previous
2 one where it said greatest net benefit, that's not net
3 economic benefit. That's net benefit to the nation,
4 which in my mind would include the social information,
5 natural science information and in many cases the
6 customary and local knowledge information. And what
7 you're looking for is the best overall benefit to the
8 nation as to what you achieve by any of these
9 management processes in my mind. So I just wanted to
10 be sure that it's not recognized as just a solely
11 economic situation.

12 DR. McCAY: Okay. Kay?

13 MS. WILLIAMS: Yes, Madam Chair. I have a
14 question for Wally. This language that you presented,
15 is it because of the nominating process or the
16 nominating sites because we now allow in our language
17 an individual to dominate the site and you want to make
18 sure that all the bases are covered on the need?

19 DR. PEREYRA: My intent here was to ensure
20 that in fact there would be this process followed, that
21 that would be one of the criteria for a site to be
22 included, that it had gone through this sort of an

1 analysis.

2 MS. WILLIAMS: Thank you.

3 DR. PEREYRA: Of some sort.

4 DR. McCAY: Okay. Is that clear? All right.
5 John, you're next.

6 DR. HALSEY: Okay. I've got to object to the
7 assumption that is pretty prevalent here that an MPA
8 will automatically have a negative economic or national
9 effect. It's my personal experience is that MPAs often
10 have a positive effect and one that, particularly in
11 the case of the Great Lakes, was completely unexpected
12 by the developers.

13 So I simply have to register that objection
14 and we ought to be looking at whether or not these
15 things could possibly have a known or a possible
16 positive net effect.

17 DR. McCAY: Okay. I believe Dave is ready
18 with his modification if you don't mind, I'll take that
19 right now.

20 MR. BENTON: Okay. Thank you, Madam Chair.
21 So, looking at the text, it would read:
22 Assessment of the alternative means to achieving MPA

1 goals, and supports a determination that the
2 new MPA is the preferred alternative to
3 address the problem.

4 That would be my amendment to Wally's motion.

5 DR. BROMLEY: David, a friendly. Could you
6 put "the" instead of "a" new? Because we're talking
7 now about a specific site. That the new MPA.

8 MR. BENTON: Oh, yes.

9 DR. BROMLEY: Is that okay?

10 MR. BENTON: Actually, that's how I wrote it.
11 That's actually how I wrote it.

12 DR. McCAY: Wally, is that still acceptable to
13 you?

14 DR. PEREYRA: I wish I had thought of that to
15 begin with.

16 DR. BROMLEY: So do we, Wally.

17 DR. McCAY: Okay. Is there a second to that?

18 MR. BENTON: You don't need to if it's a
19 friendly.

20 DR. McCAY: That's right.

21 MR. BENTON: You just need to get concurrence.

22 DR. McCAY: Okay. Is there any objection to

1 that as a friendly amendment?

2 DR. FUJITA: A minor suggestion. MPA is going
3 to address multiple problems, so plural on problem.

4 MR. BENTON: That's consistent with my intent.
5 It was an editorial comment.

6 DR. BROMLEY: Also, Lauren, about the middle
7 of the paragraph, of the problems being addressed.

8 DR. McCAY: Right. Okay. Yeah, Mark? I'm
9 going out of sequence here just to hear if there are
10 some concerns about this.

11 DR. HIXON: Specifically, I take issue with
12 the use of the word "problem" in this context, and that
13 is because there are situations in which an MPA could
14 be established without a problem having appeared. This
15 could be a preemptive issue to address a potential
16 problem or just an issue in general.

17 For example, the recent large closures off
18 Alaska to protect the corals. The corals were not yet
19 in a state of having a problem. This was a preemptive,
20 precautionary measure.

21 So in the spirit of precautionary approaches,
22 I would just like to replace, I suggest replacing the

1 word "problem" with "issue."

2 DR. McCAY: Is that satisfactory to?

3 MR. BENTON: No.

4 DR. McCAY: Why not?

5 MR. BENTON: If I could speak to my friendly
6 amendment, Madam Chair, the reason I did it the way
7 that I did it is because Wally had inserted the word
8 "problem." In Mark's discussion, and he used a good
9 analogy, I thought, the Aleutian Island closures, were
10 to address a potential, but it was still a problem.

11 The problem with using the word "issue" is to
12 me, it sort of isn't as clear as to what you want to
13 see in the nomination document. Elsewhere I was -- I
14 have another little amendment that I would propose that
15 we actually ask for people when they submit these
16 things to state the purpose of the nomination and the
17 site.

18 I think that's very important. It gets to the
19 issues that were raised the other day on the panel that
20 Bobby and Mr. Hayes were on. But I think that having a
21 statement of the problem is a very important thing. A
22 problem could be very simple. A problem could be we

1 need to protect a representative habitat type in this
2 area, and our problem is we need to do that. And so
3 then the statement of why that's the best way to solve
4 the problem is the MPA identifies the area to be
5 protected and would be established to protect the area,
6 solves the problem. That's -- to me, it's a problem
7 statement, and it's a very common usage throughout
8 regulatory processes that you have a problem statement
9 and then you have a means of solving your problem.

10 DR. BROMLEY: I'm sorry, if I may make a
11 friendly. We have at the top the need for and the
12 benefits from. Maybe this language -- okay, the need
13 for -- that's kind of purpose. The need for and the
14 benefits from an MPA based on supporting. This would
15 include. We kind of repeat ourselves. Can we help
16 ourselves a little bit by taking out that second thing?
17 This will include a statement or something.

18 DR. McCAY: I'm going to cut this a bit short
19 here and say that we really do have -- there's a motion
20 on the floor with a friendly amendment, and we probably
21 should continue discussing it as such.

22 And next I have Max, Wally, Tony, Tundi and

1 Bob Bendick, and Rod again.

2 MR. PETERSON: I think we're coming closer
3 together here. What I would do would be to where it
4 says a statement of the problem, I would say the
5 concerns or reasons the MPA is being proposed, and the
6 cost and benefits of alternative approaches considered
7 and the basis for proposing a new MPA, which I think
8 picks up what we've heard, because we do want to know
9 what -- we want to know the concerns or reasons for
10 establishing it.

11 The concern might be to provide an area to do
12 research or monitoring. There may not be a problem
13 there at all. It may be establishing baseline or
14 something. So I'm saying the reasons, the concerns or
15 reasons the MPA is being proposed and the cost and
16 benefit of alternative approaches considered and the
17 basis for proposing the new MPA.

18 If we'd look at that, I think then possibly,
19 David, then we would -- could leave in something about
20 the analysis to support the determination of the new
21 MPAs the preferred alternative to address the concerns
22 instead of the problems, something like that. I think

1 that might do it.

2 So I would propose adding that if you would at
3 least consider that.

4 DR. McCAY: Well, right now let's consider
5 this as we have it.

6 MR. PETERSON: Well, I'm going to propose to
7 amend that by adding this language, just to try to move
8 us along, because I think there's a real concern with
9 saying that every MPA has to address already identified
10 problems. I don't think that's a sound approach.

11 DR. McCAY: I've got people who want to speak
12 to that point --

13 MR. PETERSON: We may want to add new sites.

14 DR. BROMLEY: I have a point of order if I'm
15 allowed to ask that. Again, we have a zooming in
16 problem. We are focusing on page 12, and it's just
17 been pointed out to me if you look back on page 11,
18 we've addressed some of these things. We have a very
19 great danger of getting down to a sentence on page N.
20 when on page N. minus 1 we've elaborated it.

21 So I'm begging us to sort of zoom back a
22 little bit. Let's stop. Let us think about how much

1 time we're spending on sentences that have already been
2 -- okay?

3 MR. PETERSON: I'm basically in agreement with
4 you.

5 DR. BROMLEY: Yeah, so. I'm sorry. That's my
6 point of order.

7 DR. McCAY: Tony?

8 DR. CHATWIN: Thank you, Madam Chair. I agree
9 with the intent of this motion, but I do have some
10 degree of discomfort with the use of preferred
11 alternative. I understand that we want the MPA to be
12 recognized as the best out of the suite of
13 alternatives, that that's the one that we should
14 embrace.

15 My concern about the use of preferred
16 alternative is that has some legal meaning and
17 connotations and it's, you know, for example, the
18 Secretary of Commerce can, if I am not mistaken, can
19 decide to go with something that's not the preferred
20 alternative if the preferred alternative is deemed to
21 be not suitable towards sort of preventing overfishing,
22 for example.

1 So this could be addressed by the legal
2 authorities. But I think we are opening another area
3 of potential conflict with existing authorities. And I
4 wanted to bring this up not because I disagree with the
5 intent here, but just because I think we're trying to
6 address a core value of this group, and we're
7 introducing language that might not be the best way.

8 DR. McCAY: Tundi?

9 DR. AGARDY: I pass.

10 DR. McCAY: Okay. And Bob Bendick?

11 MR. BENDICK: Well, we're really wordsmithing,
12 but I would think that if we use the terms "problems"
13 or "threats," which is the term we use on the previous
14 page that the chairman just referred to, it would be
15 consistent.

16 DR. McCAY: Okay. And Rod, I think you're the
17 last in my -- no, you're not. You're not the last one.

18 DR. FUJITA: Yeah. Well, I, too agree with
19 the intent of this. I also think that it's kind of
20 redundant, as I noted. All of these things are
21 addressed in other parts of the document in my view.
22 But if it's going to make folks happier, I could go

1 with this sort of concept but substituting "concerns"
2 for "problems." I think Max and Mark raise a very
3 valid point.

4 DR. McCAY: Okay.

5 DR. FUJITA: And Tony has opened up a whole
6 new issue which I hadn't thought of. If we can find a
7 synonym for "preferred," I would like that as well.

8 DR. McCAY: Okay. And George?

9 MR. LAPOINTE: I agree with the intent as
10 well, but I think that the chairman's point about
11 taking, you know, a 20,000 foot look is important. You
12 know, Mike Nussman said we're trying to use -- when
13 you're using a hammer, everything looks like a nail.
14 Our job is to design the freakin' hammer. But to
15 recognize that it's going to be put in a tool box. And
16 I think other language in our document does that. So I
17 hope that we can get through the preferreds and the
18 issues and concerns and move away from this dilemma
19 we're in.

20 DR. McCAY: Are we in any way close to voting
21 on the motion that's in front of us? Yes, Jim?

22 DR. RAY: I pass.

1 DR. McCAY: Larry?

2 MR. MALONEY: Just a couple of quick things.
3 Rather than using the problems or concerns, how about
4 objectives or goals?

5 DR. BROMLEY: Purpose. Purposes, goals,
6 objectives.

7 MR. MALONEY: Yes. And just grammatically,
8 there's no noun or no subject that goes to supports
9 there in the last clause.

10 DR. McCAY: Okay. Well, I think we've talked
11 about many aspects of this. Does somebody want to call
12 the question?

13 DR. HALSEY: Call the question.

14 DR. McCAY: Okay. All in favor, please
15 signify by saying aye.

16 MR. PETERSON: Mr. Chairman?

17 DR. McCAY: I'm sorry.

18 MR. PETERSON: I had a motion to amend this
19 that has not been recognized so far and introduce
20 specific language.

21 DR. McCAY: I'm very sorry. I didn't hear the
22 exact language then. Was there a second to that?

1 DR. AGARDY: I'll second.

2 DR. McCAY: Okay. Now there's a second.

3 MR. PETERSON: It was moved and seconded
4 earlier, but I think something like this in place of
5 the word "reasons" this include a statement of the
6 concerns, reasons.

7 We can say concerns or purposes, picking up
8 Larry's thought, the concerns or purposes that the MPA
9 is being proposed, and the cost and benefit of
10 alternative approaches considered, and the basis for
11 proposing the new MPA.

12 We've already defined some of the bases or
13 cost benefits previously. We don't have to restate
14 that.

15 DR. McCAY: I'm sorry, Max?

16 MR. PETERSON: Statement of the concerns or
17 problems. We cannot agree to put the word "purposes."

18 DR. McCAY: Is this correct, or?

19 MR. PETERSON: No. "Purposes" --

20 DR. McCAY: The concerns addressed or purposes
21 of.

22 MR. PETERSON: Addressed by the proposed new

1 MPA and the cost and benefits of alternative approaches
2 considered, and the basis for proposing new MPA. And
3 then I would strike everything after that. Because
4 some of the things we would consider are spatial
5 questions.

6 We could include what's already there. We're
7 not trying to -- as the chairman, as Dr. Bromley has
8 suggested, we've already stated all kinds of things
9 that we would consider, so I don't think we need to
10 restate those.

11 Anyway, that's my proposed amendment. It's
12 been seconded.

13 DR. McCAY: Okay. It's up for discussion.
14 Tony?

15 DR. CHATWIN: Thank you, Madam Chair. I'm
16 afraid I cannot support this language. I have problems
17 again, the same nature, it's a definitional one. Costs
18 and benefits, we've had that discussion and we decided
19 not to use that because they have specific meanings and
20 they have different meanings in different places, and
21 I'm just not prepared to insert that into the document
22 at this point.

1 DR. McCAY: Dan?

2 DR. BROMLEY: I am quite opposed to this
3 language for the reasons that Tony's just stated.
4 Costs and benefits no matter how we talk about them, no
5 matter how we elaborate them, they will come down to
6 something that in a sense prejudices uses, different
7 interests.

8 So I'm quite opposed to the cost and benefits.
9 I could live with the rest of it, but this cost and
10 benefits is a new idea in one sense, and it is not
11 something we've had a lot of discussion about.

12 MR. PETERSON: I would agree to strike the
13 words "cost and benefits" if you want to, if the second
14 would propose that. Because we do have that elsewhere
15 in the document. Would the second agree to strike the
16 words "the cost and benefits?"

17 DR. AGARDY: Yes.

18 MR. PETERSON: We could say and the
19 alternative approaches considered and a basis for
20 proposing a new MPA. We already said it's going to
21 include costs and benefits. So that's redundant.

22 DR. McCAY: Okay. Wally, I have you next

1 here.

2 DR. PEREYRA: I like the former language in
3 1(a) better. The last phrase proposing, the basis for
4 proposing a new MPA, it seems to me that's the same as
5 the statement of concerns and purposes. So in that
6 sense, I think that language is redundant.

7 DR. BROMLEY: Just the last five --

8 DR. PEREYRA: Yeah, the last. The basis for
9 proposing a new MPA is the same as stating --

10 DR. BROMLEY: We got it in there.

11 DR. PEREYRA: So I think it's fairly diluted
12 at this point, so I'd like to -- I prefer the one we
13 had.

14 MR. PETERSON: I think that's good. Stop
15 after the word "considered."

16 DR. BROMLEY: And alternative approaches
17 considered?

18 MR. PETERSON: Right.

19 DR. McCAY: Is this also friendly?

20 MR. PETERSON: Is that okay with you,
21 seconder? Right.

22 DR. McCAY: All right. Dave?

1 MR. BENTON: The problem that I have here,
2 Max, is one of sort of a requirement on people
3 presenting a nomination. And I think -- and the reason
4 I added that last underline that's in the one up above
5 it, a determination that the new MPA is sort of the
6 best alternative, preferred alternative, use your term
7 of art, is because I think that the burden should be on
8 the proposer to show that, yeah, this is the one that's
9 going to answer the problem best, as opposed to
10 frivolous nominations. And that's sort of what I was
11 trying to get at.

12 Because we have -- anybody can do a nomination
13 for any reason. I can support what you've done here,
14 but I really -- but I cannot support it unless we have
15 something in there that gets at that other issue.
16 That's what I was trying to get at with that last
17 underlined sentence that's at the top. And I actually
18 thought you were going to include that, the
19 determination language.

20 MR. PETERSON: Okay. I couldn't figure out
21 how to do it. It's kind of dangling there. Approaches
22 considered. Have you got thought as to what we could

1 put in there?

2 DR. McCAY: Yes, Terry?

3 MR. O'HALLORAN: Would preferred solution be
4 better than preferred alternative?

5 MR. BENTON: I'm sorry?

6 MR. O'HALLORAN: Preferred solution.

7 MR. BENTON: That's fine.

8 DR. McCAY: I'm a bit concerned that we're
9 doing wordsmithing in a large group here, and I'm
10 wondering if, given the time, we could ask some of the
11 participants in this discussion to work on this.
12 Because it seems like the friendly amendments are
13 piling on top of friendly amendments.

14 So if you would not object, I would propose
15 that we table this discussion until after the lunch
16 period. I hate to do that, but it just seems like
17 we're at a point where this is really important, to sit
18 down and just come up with something. We can't do this
19 --

20 MR. PETERSON: I would so move, Madam
21 Chairman.

22 DR. BROMLEY: I support it.

1 MR. PETERSON: Good suggestion.

2 DR. BROMLEY: And it might be a good break, a
3 good time to stop actually. Thank you, Bonnie. What
4 do I have to do to get the chair back?

5 DR. MURRAY: Take it. Take the gavel.

6 DR. BROMLEY: Thank you.

7 DR. McCAY: Wait. We have to vote on tabling
8 this some way. So all in favor of tabling this till
9 after lunch, immediately after lunch?

10 (Chorus of ayes.)

11 DR. McCAY: All opposed?

12 (No response.)

13 DR. McCAY: All right. And I do ask those
14 most vocal in this who care about it and are willing to
15 come up with something that the rest of you will --
16 everybody else will agree with to work together after
17 we visit the Fish Exchange.

18 Yes, Bob?

19 MR. BENDICK: Yeah, just one quick thing. I
20 have to leave at noontime for a required staff meeting
21 at the Conservancy, but I think we've made just immense
22 progress here, and I think within our grasp is

1 something really important, which is a broad consensus
2 on a rational approach that's fair to everyone, that's
3 locally and regionally based for saving marine
4 resources in the U.S.

5 And I do hope in the remainder of the meeting
6 the same kind of sort of can do and collegial spirit
7 that has shown itself at the first part of this meeting
8 can prevail, and that we can come together in a
9 consensus that I think can have tremendous impact.

10 The only thing that I would add is the one
11 issue we're going to take up after lunch is the issue
12 of funding and support. And I do think in some form,
13 this document has to convey more strongly that funding
14 and incentives for this to happen is an important and
15 legitimate purpose of the recommendations of this
16 committee and should rise to the surface somewhere as
17 we go forward. Because it's not going to happen with
18 the staff support or the incentives to places to have
19 this work.

20 DR. BROMLEY: Good.

21 DR. McCAY: Thank you, Bob. Now I will pass
22 over the baton.

1 DR. BROMLEY: (Resumes as chair.) Thank you.
2 Please don't leave. We have two issues. We want an
3 official photograph, and we want Barbara to speak. So,
4 Barbara, would you spell out what we need to know.

5 MS. STEVENSON: Do you want me to speak first?

6 DR. BROMLEY: Yes. And then we will come up
7 here for this photograph, and then you're free to go.
8 We must be in the lobby at 11:30. So, Barbara, please
9 do your thing, and then everybody come up front.

10 MS. STEVENSON: A very quick thing. You're
11 going to the Portland Fish Exchange. It's an auction
12 with actual humans there with the fishes all on
13 display. There are electronic auctions. That's why I
14 had to say that. The auction starts at noon, so you
15 will get there in time to look at the fish and see a
16 few minutes of the auction. The auction is extremely
17 interesting for a short time. I understand it's not
18 very interesting to most people for a long time because
19 it's the same thing over and over.

20 So, you'll go, see the fish, see what they do
21 with them. And if you ride down the pier, there at, at
22 least yesterday, there's three kinds of boats there. I

1 know one of my boats is there. It's the General George
2 S. Patton. That's the size of what George calls a big
3 boat. I of course call the bigger boats 95 to 120 feet
4 big boats. But that's it. We don't have any bigger
5 than that here.

6 So in the scheme of everything else, they're
7 all small boats, right, Wally? And you'll see some 55-
8 foot boats which are what I call the main shrimp fleet.
9 They also ground fish and some smaller gill netters
10 and other types of boats are there. The vessels that
11 are landing the fish on the auction, not only are they
12 under the regulations that you saw yesterday with the
13 closed areas, but they were allocated on average 55
14 days a year to fish under the last amendment. They have
15 mesh restrictions. The trawl fleet has the largest
16 mesh size in any kind of similar fishery in the world,
17 and we also have minimum fish sizes. And on one or two
18 species, we also have trip limits.

19 So, when you talk about highly regulated, we
20 are, and we're still here somehow. And if you have a
21 coat, you might want to bring it.

22 DR. BROMLEY: Thank you, Barbara. The address

1 for those who --

2 MS. STEVENSON: It's 300 Commercial Street.

3 DR. BROMLEY: Okay.

4 MS. STEVENSON: It's on the same street that
5 you --

6 DR. BROMLEY: Right by the Marine Research --

7 MS. STEVENSON: Right. And those of you that
8 have a nice little funky map that they passed out here,
9 they don't have the Fish Exchange at the correct place.

10 (Laughter.)

11 MS. STEVENSON: It is at the bottom of Center
12 Street. You can see on that little map there's a
13 stoplight there. The stoplight's in the right place.
14 Center Street's in the right place, and the Portland
15 Fish Pier is directly through the stoplight. It's very
16 obvious when you're down there looking for it.

17 DR. BROMLEY: Okay. Thank you. Okay. Come
18 up here, we're going to have a photograph.

19 MS. WENZEL: As far as getting down to the
20 Exchange we are going to have a shuttle in the lobby at
21 11:30 that can take some people, and then we're asking
22 folks who have cars if they could also offer other

1 folks rides. We should have enough space for
2 everybody.

3 So, thank you.

4 DR. BROMLEY: Okay. Come up front. We're
5 going to have a photo. I'm worried, Dolly left the
6 room, so I don't know.

7 (Whereupon, at 11:20 a.m., the meeting
8 recessed for lunch and tour.)

9

1 AFTERNOON SESSION

2 DR. BROMLEY: Okay. We're back in session.

3 MR. BENTON: Mr. Chairman, could you summarize
4 for us what motions have been tabled? Because there
5 were two.6 DR. BROMLEY: Yeah, we're going to do that.
7 We're going to do that. Did you have more?8 MR. BENTON: No. I'm getting ready to make a
9 motion to bring them back on the table. I want to know
10 which ones they are and we'll figure out which one to
11 bring back first. I'm ready to go.12 DR. BROMLEY: Would you mind, David, if we
13 approved first the minutes from our February meeting?

14 MR. BENTON: You're the chairman.

15 MR. LAPOINTE: I move approval of the minutes
16 from the February meeting.

17 DR. BROMLEY: Thank you. Is there a second?

18 MR. BENTON: I second.

19 DR. BROMLEY: Any discussion?

20 (No response.)

21 DR. BROMLEY: All in favor of the motion say
22 aye.

1 (Chorus of ayes.)

2 DR. BROMLEY: Thank you. Now, David, thank
3 you. We too are wondering which things is on the
4 table. Do you know?

5 MR. BENTON: Mr. Chairman, I believe that we
6 had the -- what I'm going to call the Wally issue, and
7 we had the issues that were my motion that were the
8 list of deletions, additions and deletions and changes
9 with regard to Max's authorities documents.

10 DR. BROMLEY: Those are the two issues?

11 MR. BENTON: Yeah. So if Dr. Pereyra is not
12 here, I would --

13 DR. BROMLEY: David -- sorry. I was going to
14 lay out the program for the rest of the day, and you
15 kind of preempted me. I'm sorry. May I go back, may I
16 just back up? I'd like to make now a procedural
17 proposal. And that is we just approved the minutes,
18 that we're going to vote at three o'clock.

19 We have an hour to dispense with the issues
20 that can be dispensed with. And if they cannot be
21 dispensed with, we're going to have to figure out how
22 to describe those things that have not been done. We

1 must leave time in our program to craft an executive
2 summary, and we are not going to do any of that
3 tomorrow. It is going to be done today. We are voting
4 at three o'clock.

5 MR. BENTON: Mr. Chairman?

6 DR. BROMLEY: Yes?

7 MR. BENTON: Could we make that vote
8 contingent on Lauren being able to get us a document in
9 front of us to look at?

10 DR. BROMLEY: That would be fine.

11 MS. WENZEL: Would it be all right if it's on
12 the screen?

13 DR. BROMLEY: It will be on the screen.

14 MR. BENTON: It's sort of hard to see. But,
15 you know, what's your production capability? Is
16 printing hard?

17 MS. WENZEL: We can do it. It will just take
18 a little more time, that's all.

19 MR. BENTON: Got it.

20 DR. BROMLEY: We are production capability
21 challenged here.

22 MR. BENTON: Mr. Chairman?

1 DR. BROMLEY: Yes?

2 MR. BENTON: The reason I asked that is you
3 may want to have a little bit of flexibility whether
4 it's three or four o'clock or somewhere in there. If
5 that means we can get a vote done, I think it's
6 important to get the vote done.

7 MS. WENZEL: Just tell me where we are so I
8 can --

9 DR. BROMLEY: Yeah, I don't know. It will not
10 be a four o'clock, David. I'm sorry. We have spent a
11 lot of time addressing very important issues, and it's
12 now time to see where we stand. I want to vote at
13 three o'clock, and I believe we are able to read the
14 language on the screen or whatever and situate it in
15 the document that you all have in front of you. And
16 I'm begging you to allow us to do this.

17 If we wait until four o'clock -- are you
18 telling me that we cannot process what Lauren can
19 project on the screen for the sections that have been
20 changed? I'm open. I mean, if you people feel that
21 you cannot deal with the document, the changes that
22 we've made in it, okay. But, you know, we're down to a

1 serious moment now.

2 MR. PETERSON: Mr. Chairman, why don't we
3 proceed and see if we can --

4 DR. BROMLEY: See where we are.

5 MR. PETERSON: See if we can meet three
6 o'clock.

7 DR. BROMLEY: Okay.

8 MR. PETERSON: And since Wally just came in, I
9 would -- taking things off the table, would you like to
10 take your item off the table first, Wally?

11 DR. PEREYRA: Bring it on the table. Would
12 you like me to do that?

13 MR. PETERSON: I think -- yes, you could do
14 that if you'd like to.

15 DR. PEREYRA: Okay.

16 MR. PETERSON: And we have a proposal that we
17 worked up that David --

18 DR. BROMLEY: Okay. Those are the two things
19 we left before lunch. That's great. Let's do a little
20 work.

21 MR. BENTON: Did you move to bring it back on
22 the table?

1 DR. PEREYRA: Yes.

2 MR. BENTON: I'll second the motion.

3 DR. BROMLEY: Bob, Bob Zales?

4 MR. ZALES: I've got a procedural question.

5 We're talking about three or four o'clock today.

6 What's on the table for tomorrow? What are we playing
7 with tomorrow, dealing with all these timelines?

8 DR. BROMLEY: Well, we have two issues
9 tomorrow, Bob. Actually, if you look at Thursday
10 morning, we have public comment period from 8:10 until
11 whenever, and then we have nine o'clock finalize
12 document review. I'm not sure what we thought we might
13 do there. Then we have a break. And then we have the
14 discussion on the next FAC charge. And I've already
15 been visited by three or four people who tell me they
16 have to leave tomorrow. And it's not clear whether
17 they're leaving at 11:00 or 11:30 or 12:00 or 1:00.
18 And, you know, that's my anxiety, Bob.

19 MR. ZALES: Well, I understand. And that's
20 kind of my point that I brought up in one of the
21 conference calls is, you know, we've got half a day set
22 up tomorrow on the future FAC thing. And in my mind,

1 this document is much more important than the future
2 FAC thing.

3 So if it takes us dealing with time tomorrow
4 afternoon instead of dealing with the future of FAC,
5 let's deal with what we've got and finish our business
6 and then let the future of FAC worry about the future
7 of FAC. That's just my one thought.

8 DR. BROMLEY: I propose that we move with all
9 due haste right now and see what we can get done.

10 MR. ZALES: Yes sir.

11 DR. BROMLEY: And I'm going to be very cross
12 about delays and delays and delays. If that isn't
13 obvious, I'll repeat it. We need to get going.

14 MR. BENTON: So I think, Mr. Chairman?

15 DR. BROMLEY: Yeah?

16 MR. BENTON: I think that Max moved and I
17 seconded bringing the Wally amendment on the table.

18 DR. BROMLEY: All right. Do that.

19 MR. BENTON: Call for the question, Mr.
20 Chairman.

21 DR. BROMLEY: The question has been called on
22 the --

1 MR. BENTON: To bring it back before us.

2 DR. BROMLEY: Yeah, good.

3 MR. PETERSON: Can we move it over just a
4 little bit?

5 MS. WENZEL: Yeah. I'm sorry. Which version
6 are you looking at?

7 MR. PETERSON: The one at the bottom.

8 MS. WENZEL: I think that's this thing.

9 MR. PETERSON: It's the one we just put on
10 there.

11 DR. BROMLEY: It's inside the technology
12 somehow.

13 MS. STEVENSON: I have a quick question.

14 DR. BROMLEY: Yes, Barbara?

15 MS. STEVENSON: Is this 1(a) what we're voting
16 on?

17 DR. BROMLEY: No.

18 MR. BENTON: I'm going to read it, Barbara.

19 DR. BROMLEY: Way down below.

20 MS. STEVENSON: Since they called the
21 question, I just want to be sure of what we're reading.

22 DR. BROMLEY: Sorry. Lauren, put it back to

1 like 130 percent, please.

2 MR. BENTON: The question was on just bringing
3 it back in front of us.

4 DR. BROMLEY: Do it at 120, 120 percent.

5 MS. STEVENSON: So this vote is just to bring
6 it back?

7 MR. BENTON: Bring this one back in front of
8 us.

9 MR. PETERSON: Yeah. We're not voting on the
10 substance.

11 DR. BROMLEY: Okay. Now cursor it down,
12 please.

13 MS. STEVENSON: Then why are looking at it?

14 DR. BROMLEY: Which one?

15 MR. BENTON: That's it.

16 DR. BROMLEY: That's it? This is what we're
17 taking off the table. All right. Can everybody read
18 it? The need for and benefits from an MPA based on
19 supporting -- on supporting materials from the natural
20 sciences, the social sciences and customary local
21 knowledge.

22 This will include a statement of the concerns

1 or purposes addressed by the proposed new MPA and
2 analysis of the alternative approaches considered and a
3 determination that the new MPA is the preferred
4 approach to address the concerns or purposes.

5 Is that what you wrote, Max, Dave?

6 MR. PETERSON: What we wrote. That's what the
7 committee wrote.

8 DR. BROMLEY: Does that look right? Okay.
9 Ready for the question.

10 DR. CHATWIN: Excuse me, Mr. Chairman. Are
11 voting to bring it back or are we voting on the
12 substance? My understanding is that we're voting to
13 bring it back for discussion. Is that correct?

14 DR. BROMLEY: We've already kind of done that.
15 It's back in play, I believe. But I --

16 DR. CHATWIN: We need to clarify that.

17 DR. BROMLEY: Okay. Then all in favor of
18 bringing this language back into play off the table,
19 say aye.

20 (Chorus of ayes.)

21 DR. BROMLEY: Opposed? Okay. How are we
22 doing? Barbara?

1 MS. STEVENSON: Is this the language they
2 worked on over lunch?

3 DR. BROMLEY: I believe it is.

4 MS. STEVENSON: Okay. Which is not what we
5 brought back to the table. We brought back to the
6 table whatever the language was before lunch.

7 MR. BENTON: Mr. Chairman?

8 DR. BROMLEY: Yes, David?

9 MR. BENTON: Mr. Chairman, Barbara is correct.
10 And what I would do, Mr. Chairman is move as a
11 substitute motion the work of the committee that you
12 see on the screen entitled 1(b) with my name, Max's,
13 Rod's and Mike Nussman's name.

14 DR. BROMLEY: Substitute motion.

15 MR. LAPOINTE: Second.

16 DR. BROMLEY: So it's been moved and seconded
17 as a substitute for what came off the table.

18 MR. BENTON: So if it passes, Mr. Chairman, it
19 would carry?

20 DR. BROMLEY: Yeah. That's right. And we
21 don't need to go back to what it replaced. If
22 defeated, then we're back at what we replaced.

1 MR. BENTON: Mr. Chairman?

2 DR. BROMLEY: Yes?

3 MR. BENTON: I'm prepared to speak to it
4 unless we can just vote on it.

5 DR. BROMLEY: Could we vote on it?

6 VOICES: Yes.

7 DR. BROMLEY: Not that we don't value what you
8 have to say, David, but. Are you ready for the
9 question?

10 MR. PETERSON: Yes sir.

11 DR. BROMLEY: All in favor say aye.

12 (Chorus of ayes.)

13 DR. BROMLEY: Opposed?

14 (No response.)

15 MR. BENTON: Mr. Chairman?

16 DR. BROMLEY: Yes, David?

17 MR. BENTON: Mr. Chairman, I would move that
18 we bring back on -- back before us the second issue
19 that was tabled, which is the list of items and
20 deletions that Max had. I had a motion on the table
21 that I'm prepared to restate and then deal with it or
22 however you wish.

1 DR. BROMLEY: Okay.

2 MR. BENTON: But I'm moving to bring it back
3 before us if I have a second.

4 DR. BROMLEY: Good. Is there a second to it?

5 MR. LAPOINTE: Second.

6 DR. BROMLEY: Okay. All in favor of bringing
7 it back for consideration, say aye.

8 (Chorus of ayes.)

9 DR. BROMLEY: Opposed?

10 (No response.)

11 DR. BROMLEY: Okay.

12 MR. BENTON: Max, you didn't type that one in,
13 did you?

14 MR. PETERSON: Yes, she has it.

15 MR. BENTON: Okay.

16 MS. WENZEL: We did. We just put it in the
17 document.

18 MR. PETERSON: We can put it in the document.

19 If we can go --

20 MS. WENZEL: Just walk me through it.

21 MR. PETERSON: I guess technically what we've
22 brought back on was David Benton's motion to accept

1 items number 3 and 4.

2 MR. BENTON: Correct.

3 MR. PETERSON: But let's -- why don't we just
4 go through them?

5 MR. BENTON: If you go through them and
6 propose them as a friendly --

7 MR. PETERSON: Okay. Then you'll accept them?

8 Okay. Let's go to page 9, lines 22 and 23. What
9 we've done here would be to take out the wording that I
10 had suggested earlier and just simply say we'll be
11 accomplished to the extent feasible under existing
12 provisions of law. And she's got that in, page 9,
13 lines 22 and 23. Be accomplished to the extent
14 feasible under existing provisions of law.

15 DR. BROMLEY: Okay.

16 MR. PETERSON: Because there are some -- there
17 is some authority out there already, so there could be
18 some things done.

19 DR. BROMLEY: Okay.

20 MR. PETERSON: That's the first one.

21 DR. BROMLEY: That's the first one. Why don't
22 we separate the questions and just deal -- can we just

1 deal with them as we go through?

2 MR. PETERSON: We can if you'd like to.

3 DR. BROMLEY: I'd like to sort of dispense
4 with them.

5 MR. BENTON: Mr. Chairman, I was prepared to
6 accept these as friendly, but if you want to deal with
7 them separately, the right thing would be for him to
8 propose it as an amendment and vote on it.

9 DR. BROMLEY: Okay.

10 MR. PETERSON: Yeah. I'll just propose that
11 as an amendment and we can vote on them individually.

12 DR. BROMLEY: All right.

13 MR. BENTON: Your choice.

14 DR. BROMLEY: Go ahead.

15 MR. PETERSON: So I would propose that as an
16 amendment.

17 DR. BROMLEY: Okay.

18 MR. PETERSON: I need a second.

19 MR. LAPOINTE: Second.

20 DR. BROMLEY: Any discussion? Yes, Rod?

21 DR. FUJITA: Max, I thought you meant to say
22 will be accomplished.

1 MR. PETERSON: Yes. Will be accomplished.

2 Thank you. Will be accomplished.

3 DR. BROMLEY: The friendly, take the "should"
4 out and replace it with "will."

5 MR. PETERSON: That's good. Thank you, Rod.

6 MR. ZALES: Can you make that more readable
7 for those of us who have a hard time seeing, dealing
8 with glasses?

9 MS. WENZEL: Yes.

10 DR. BROMLEY: Accomplish to the extent
11 feasible under existing provisions of law.

12 MR. PETERSON: Okay. That's that one.

13 DR. BROMLEY: Okay.

14 MR. BENTON: Do you want to vote on each one
15 of these, Mr. Chairman?

16 DR. BROMLEY: I'd like to vote on each one.
17 Okay. Are you ready to vote on this one? All in favor
18 of this change, say aye.

19 (Chorus of ayes.)

20 DR. BROMLEY: Opposed?

21 (No response.)

22 DR. BROMLEY: Good. Next.

1 MR. ZALES: Mr. Chairman, I'm sorry. I can't
2 read it. And so I don't --

3 MS. WENZEL: Is it the yellow that you can't
4 read, Bob, or?

5 MR. ZALES: What you've got highlighted in
6 that green color.

7 MS. WENZEL: I'll just leave it like this.

8 MR. PETERSON: Can you underline it?

9 MR. BENTON: It just changes the "should be
10 accomplished" to "will be accomplished to the extent
11 feasible under existing provisions of law" is what it
12 says.

13 MR. ZALES: Okay.

14 DR. BROMLEY: Is that okay?

15 MR. ZALES: Yes.

16 DR. BROMLEY: I guess we voted on that on.

17 Next.

18 MR. PETERSON: Now just as a matter of
19 information, in the original handout we had something
20 on page 10, line 14 and 15, and we're no longer
21 proposing that change, so we can just strike that out
22 so we're not proposing anything.

1 The next amendment is on page 10, line 35.

2 DR. BROMLEY: Okay.

3 MR. PETERSON: And we'd simply delete
4 "utilizing existing authority" because we've already
5 said utilizing existing authority to the extent
6 feasible. We don't need to say it again.

7 DR. BROMLEY: I'll read it. So it would now
8 read:

9 Implement a planning process that identifies existing
10 MPAs that meet national system criteria and
11 regional goals and (b) gaps where new MPAs,
12 including trans-boundary MPAs, may be needed
13 to address threats to marine resources not
14 covered by existing legal protections.

15 Is that what you meant?

16 MR. PETERSON: Yes.

17 DR. BROMLEY: Max, does that sound right?

18 MR. PETERSON: Yes. Yes.

19 DR. BROMLEY: David, is that okay with you?
20 So in a sense we're just striking "utilize existing
21 authorities." Bob Zales?

22 MR. ZALES: Can I ask why that we're removing

1 "utilizing existing authorities?"

2 MR. PETERSON: Because we've already said it
3 in the heading of this. We've already said it once in
4 this section. We didn't think we needed to say it two
5 or three times.

6 MR. BENTON: It's just the Department of
7 Redundancy Department.

8 MR. PETERSON: Trying to heed or chairman's
9 thought to not repeat everything in every sentence.

10 DR. BROMLEY: Okay.

11 MR. PETERSON: Okay, Bob?

12 DR. BROMLEY: Are you ready for the question?

13 MR. BENTON: You don't need to vote on this.
14 It's part of the main motion, Mr. Chairman.

15 DR. BROMLEY: Oh, okay. Thank you.

16 MR. BENTON: Max is just going through the --

17 MR. PETERSON: I'm just going through it.

18 DR. BROMLEY: All right.

19 MR. PETERSON: The next one, which is part of
20 his original motion, was we suggested delete the words
21 "Executive Order provides the agency with direct
22 authority to establish a national system."

1 MR. BENTON: Where is that, Max?

2 MR. PETERSON: It's on page 11, line 21 and
3 22. I'm sorry. Line 8. I'm sorry.

4 DR. BROMLEY: So you're deleting the whole
5 sentence on line 8 at page 11, that last sentence. Is
6 that right?

7 MR. PETERSON: No.

8 MR. BENTON: Yes we were, Max.

9 MR. PETERSON: Yes we were. That's right. We
10 were eliminating that whole sentence. That was his
11 original motion.

12 DR. BROMLEY: Which sentence?

13 MR. BENTON: Mr. Chairman?

14 DR. BROMLEY: Yes?

15 MR. PETERSON: Dave, go ahead.

16 MR. BENTON: Mr. Chairman, my motion was what
17 Max had originally proposed. It was on the sheet. I
18 believe, Max, that the committee made a decision that
19 we would delete the entire sentence, not just those
20 words.

21 MR. PETERSON: That's right. We were
22 concerned particularly about saying that there wouldn't

1 be any formal nomination of some sites. We felt that
2 every site ought to be nominated by somebody. So we
3 decided the best thing to do was eliminate that whole
4 sentence. It's redundant. Because we've got a whole
5 section on nomination.

6 So that is an amendment to David's original
7 motion was to strike that entire sentence starting with
8 Executive Order.

9 DR. BROMLEY: Okay. Where are we? Has that
10 been seconded? Are we okay with this? Ready for
11 discussion?

12 MR. BENTON: He's making it his motion.
13 There's not been a second that I've heard.

14 DR. BROMLEY: I haven't heard one either.

15 MR. LAPOINTE: Second.

16 DR. BROMLEY: Now it's been seconded.

17 MR. BENTON: Now you can vote.

18 DR. BROMLEY: Anybody want to speak to it?

19 MR. ZALES: This is taking out line 8, 9 and
20 10 starting with ask?

21 DR. BROMLEY: That's correct. Comments?
22 Ready for the question?

1 DR. FUJITA: Question.

2 DR. BROMLEY: All in favor of this change, say
3 aye.

4 (Chorus of ayes.)

5 DR. BROMLEY: Opposed?

6 (No response.)

7 DR. BROMLEY: Okay.

8 MR. PETERSON: Page 11, lines 21 and 22.

9 DR. BROMLEY: Delete "in accordance with
10 existing legal procedures," right?

11 MR. PETERSON: We thought probably we could
12 delete lines 21 through 23 because the rest of it's
13 redundant.

14 DR. BROMLEY: So in a sense, it would --

15 MR. LAPOINTE: Is that a motion, Max?

16 MR. PETERSON: It's an amendment, yes. We
17 would strike I think the whole sentence.

18 DR. BROMLEY: Yeah.

19 MR. PETERSON: Starting with new MPAs.

20 DR. BROMLEY: Starting in the middle of line
21 21, page 11.

22 MR. PETERSON: Yeah. Because otherwise we've

1 got a dangling thing there.

2 MR. LAPOINTE: Second.

3 DR. BROMLEY: George has seconded. Yes, Bob
4 Zales?

5 MR. ZALES: What is the rationale for removing
6 that sentence?

7 MR. PETERSON: We've already said twice before
8 that it's going to be done under existing and legal
9 authority to the extent feasible, and we don't need to
10 repeat existing legal authority every time we add
11 another paragraph. Our chairman said we don't need to
12 say it six times, and that's what we're trying -- it
13 doesn't change the substance really of the document.

14 DR. BROMLEY: We've said it before.

15 MR. PETERSON: Right.

16 DR. BROMLEY: Are you ready for the question
17 on this one? Jim?

18 DR. RAY: Yeah. The only comment I have on
19 that section was, you know, I was thinking one of the
20 additions if this section stayed in was just a
21 statement where you said would be subject to this
22 review process and it would become part of the national

1 system, I was thinking somewhere we ought to be saying
2 that, you know, to become part of the national system,
3 they need to meet the selection criteria that have been
4 set for the national system. Just as long as that
5 thought is not lost somewhere else in the report.

6 MR. PETERSON: I think if my seconder would
7 agree, we probably could leave in that new MPAs would
8 be subject to the review process if they become a part
9 of the national system. I think we could leave that
10 in. That's not redundant.

11 DR. BROMLEY: It's the existing legal
12 authorities part that we want to clean up. Secunder,
13 George?

14 MR. PETERSON: I'd accept that as a friendly
15 amendment.

16 DR. BROMLEY: Jim, does that feel better if we
17 leave that part in then?

18 DR. RAY: Yeah. I just didn't want to lose
19 that --

20 DR. BROMLEY: How are we doing? What we would
21 then have is new MPA sights must be reviewed and
22 approved in accordance --

1 MR. PETERSON: In accordance with the review
2 process.

3 DR. BROMLEY: In accordance, yes. In
4 accordance with the review process. This review
5 process. If they are part of the national system.

6 MR. PETERSON: Yeah. That's good. Thank you.
7 The last one, Mr. Chairman.

8 MR. BENTON: We need to vote on this
9 amendment.

10 MR. PETERSON: We've got to vote on this one.

11 DR. BROMLEY: Okay. Are you ready to vote on
12 this one?

13 MR. PETERSON: Yes sir.

14 DR. FUJITA: I have a question.

15 DR. BROMLEY: Yes, Rod?

16 DR. FUJITA: By this process, are we referring
17 to the review process we've outlined in the section?
18 Should we clarify that?

19 DR. BROMLEY: Yeah, the "this," the unclear
20 antecedent here has me a little bit intrigued. To what
21 does the "this" refer?

22 MR. PETERSON: We could say the review process

1 outlined in this document or something like that.

2 DR. BROMLEY: Well, the sentence starts, It is
3 important to offer specific criteria for the decision
4 to add new sites regarding need, design and
5 implementation provided. Is that okay? Barbara?

6 MS. STEVENSON: It's the review process
7 outlined below.

8 DR. BROMLEY: Yeah.

9 MR. PETERSON: That's probably right. I would
10 accept that as part of the amendment.

11 DR. BROMLEY: So now where are we? What have
12 you accepted, Max?

13 MR. PETERSON: She's got it up there now.
14 Review process outlined below.

15 DR. BROMLEY: Change "this" to "the", the
16 review process outlined below.

17 MR. PETERSON: Yeah. Leave review process,
18 yeah.

19 DR. BROMLEY: Is that okay?

20 MR. PETERSON: Mm-hmm.

21 DR. BROMLEY: Yes, Tony?

22 DR. CHATWIN: Mr. Chairman, looking at the

1 process below, we don't talk about how it's approved.
2 And in this language, we're saying it should be
3 approved according to the process outlined below. So I
4 would suggest taking out the approved, because the
5 intention is that these sites are going to have to be
6 approved through the process under which they
7 --

8 DR. BROMLEY: Can I ask a point of
9 information? Is it not clear elsewhere in our document
10 this thing that we are now discussing? Is this the
11 only place we say it? Of course not.

12 MR. PETERSON: No, it's redundant.

13 DR. BROMLEY: We say it other places over and
14 over again. This thing about new MPA sites, we lay out
15 other places. I can't point to it at the moment, but
16 we lay it out what the criteria are, the review
17 process.

18 MR. PETERSON: I think if it would make people
19 feel better, instead of outlined below, it would be
20 better to say outlined in this report.

21 DR. BROMLEY: In this report.

22 MR. PETERSON: Something like that. Because

1 it's not all outlined below.

2 DR. BROMLEY: George, you're the seconder.

3 Okay.

4 New MPA sites must be reviewed and approved in
5 accordance with the review process outlined in
6 this report.

7 MR. PETERSON: Yeah.

8 DR. BROMLEY: Is that where we are now?

9 MR. PETERSON: Yes.

10 DR. BROMLEY: How do people feel about that?
11 Tony?

12 DR. CHATWIN: I feel it's confusing.

13 DR. BROMLEY: Okay.

14 DR. CHATWIN: We have a section that's
15 entitled Process. We don't have a section entitled
16 Review Process. So, again, I'm not debating the
17 substance, it's just a little unclear.

18 DR. BROMLEY: Okay. But this is in a section
19 called Nominating Sites. So therefore, why can't we
20 say something like subject to the processes outlined in
21 this report? I mean, here we're nominating sites.
22 Somebody's nominating sites. I believe.

1 MR. PETERSON: Do you want to strike the word
2 "review?" Is that what you'd like to --

3 DR. BROMLEY: Yes, Gil?

4 MR. RADONSKI: I think Tony is asking for a
5 reasonable thing. He's just saying where can we label
6 a review process in the document? Is that where you're
7 going, Tony? You're just not clear where it is?

8 DR. CHATWIN: Yeah. Well, I'm saying we don't
9 have one, so should we be referring to one, or should
10 we, like you say, label one --

11 DR. BROMLEY: I have Dave and then I have
12 George. David?

13 MR. BENTON: If Bob Bendick was here, he would
14 walk us through this I think fairly quickly, Mr.
15 Chairman, but this was a work product of in large part
16 the result of the work committee that he was on and I
17 was on. And I think that in a Reader's Digest version,
18 we have a nominating process through a regional entity
19 for inclusion if it meets the criteria into a national
20 program. That the agencies, the Secretaries of
21 Commerce or Interior, are going to designate a lead
22 agency for the coordination of that program that's in

1 another section.

2 The approval, once it goes through the
3 regional scrub and is forwarded on as a nomination,
4 would be done by that lead agency. That was always my
5 understanding. But it could only done once the
6 regional entity had said it's part of the national
7 backbone, okay. Now whether we need to be clearer
8 about that is a separate question which we could circle
9 back to. And maybe we do. I don't know.

10 DR. BROMLEY: Okay. George?

11 MR. LAPOINTE: Trying to clarify. And I think
12 I'm about one for four on these. If we change review
13 process in this report to the nomination process in
14 this report, is that clearer?

15 DR. BROMLEY: Yes.

16 MR. LAPOINTE: Because we talk about
17 nominating a number --

18 DR. BROMLEY: Yes. That's what it is.

19 MR. PETERSON: That would be better.

20 DR. BROMLEY: That's what will do it.

21 MR. PETERSON: It's the nomination process.

22 MR. BENTON: God, you're good.

1 DR. BROMLEY: Okay. I had you, Mike.

2 MR. BENTON: George just made up for earlier.

3

4 DR. BROMLEY: Yes, Mike? Quick.

5 DR. CRUICKSHANK: Just eliminate that second
6 review there. Because it says must be reviewed and
7 approved in accordance with the process outlined below.
8 The line above is the process.

9 DR. BROMLEY: Nomination process.

10 DR. CRUICKSHANK: We're going to call that
11 nomination process?

12 MR. BENTON: Yeah.

13 DR. BROMLEY: So where are we?

14 MR. PETERSON: Outlining this report.

15 DR. BROMLEY: Okay. Now can you read it, Bob?
16 That's a long way off.

17 MR. PETERSON: We don't even need that last
18 dangling thing if they're to become a part of the
19 national system.

20 DR. BROMLEY: That's right. We don't need
21 that.

22 MR. PETERSON: We don't need that.

1 DR. BROMLEY: Outlining this report. End with
2 this report. Bob, can you see this now?

3 New MPA sites must be reviewed and approved in
4 accordance with the nomination process
5 outlined in this report.

6 MR. PETERSON: Right. Very good.

7 DR. BROMLEY: Ready for the question?

8 MR. PETERSON: Yes.

9 DR. BROMLEY: All in favor say aye.

10 (Chorus of ayes.)

11 DR. BROMLEY: Opposed?

12 (No response.)

13 DR. BROMLEY: All right. Where are we on your
14 list, David?

15 MR. PETERSON: Finally, finally. This is the
16 last one. Page 12, line 33.

17 DR. BROMLEY: Page 12, line 33. It's under
18 Adding New Sites, Lauren. That would be the heading.

19 MR. PETERSON: Page 12, line 33.

20 DR. BROMLEY: And then the first sentence.

21 New sites -- yeah, this is what you're talking about.

22 Go ahead, Max.

1 MR. PETERSON: Would enter the system under
2 existing authorities, period. And we don't -- there's
3 a whole lot of -- there's states that can include in
4 the system. There's Indian tribes. There's all kinds
5 of people. So it doesn't make sense to just single out
6 National Park Service, which we don't believe has the
7 authority. So just under existing authority, and
8 strike the words National Parks, national marine
9 sanctuaries, state parks, fisheries.

10 DR. BROMLEY: So you want it to read new sites
11 nominated because your paper says delete under existing
12 authorities. Now you want to say nominated sites, new
13 sites nominated for inclusion would enter the system
14 under existing authorities.

15 MR. BENTON: Period.

16 DR. BROMLEY: Period. Is that it, Max?

17 MR. PETERSON: Well, that's the thought. It's
18 not -- we probably need the word "feasible" probably,
19 something like that. Under existing authorities were
20 feasible would probably be a qualifier. David, what do
21 you think?

22 MR. BENTON: Max, I think it's fine the way it

1 is. The only question I have, Mr. Chairman, through
2 the chair, is I believe that at one point you were
3 talking about changing would to could.

4 MR. PETERSON: Oh, yes, could. Change the
5 word "would" to "could." We're just recognizing that
6 sites could enter the system under existing authority.

7 Some might not, so we're saying that some -- we
8 probably ought to say some new sites nominated for
9 inclusion could enter the system under existing
10 authority. Not all sites could. Anyway, something
11 like that.

12 DR. BROMLEY: Does the first sentence add
13 value to what we're trying to say here? Is it needed?

14 It is needed?

15 MR. PETERSON: I'd be willing to take the
16 whole darn sentence out.

17 DR. BROMLEY: I think we could take the whole
18 thing out, but I wouldn't fight anybody over it.

19 MR. PETERSON: I'd be willing to take the
20 whole thing out.

21 DR. BROMLEY: I don't see why we can't start
22 this by saying in addition to addressing the steps

1 noted above, newly established sites proposed for
2 inclusion in the national system would be required to
3 assess --

4 MR. PETERSON: That's great. Let's do that.
5 Is that okay with you, David? Let's do that.

6 MR. BENTON: Say it again.

7 DR. BROMLEY: We'd just start with the second
8 sentence. Although I don't like the idea of sites
9 having to assess things, since sites are inanimate
10 objects. But, you know, -- in addition to addressing
11 the steps noted above, newly established sites proposed
12 for inclusion in the national system would be assessed
13 on the following grounds.

14 MR. PETERSON: Would be assessed in accordance
15 with the following.

16 DR. BROMLEY: With the following or something.

17 MR. PETERSON: Yeah.

18 DR. BROMLEY: David, is that all right?

19 (Nods in the affirmative.)

20 DR. BROMLEY: George, you're the kind of --
21 are you the seconder in all this or not?

22 MR. LAPOINTE: Yeah. I'm seconding it again

1 if you want me to. Is that accepting the friendly
2 motion?

3 DR. BROMLEY: Well, you know, this is all at a
4 friendly level. Bob?

5 MR. ZALES: My question is, under what
6 authority would they enter the system? And the other,
7 I don't have a problem with taking that out and
8 starting with "In addition," but in 1, 2 and 3 it
9 doesn't mention anything about anybody's authority. It
10 just has ways to assess what needs to be done.

11 MR. PETERSON: We've mentioned existing
12 authority about four times in the document already up
13 to this point.

14 MR. LAPOINTE: And we've additionally raised
15 the question about whether the existing authority is
16 enough. I mean, that was the quandary I was going to
17 get in before. So if you take the sentence out, you
18 can do it under existing authority, or it's that
19 question about a next step. We can do it under
20 whatever that might be as well.

21 MR. ZALES: I guess that's kind of my
22 question. What would be the next step if you didn't

1 enter under existing authority, how would you enter the
2 national system?

3 DR. BROMLEY: David, could you answer him?

4 MR. BENTON: Thank you, Mr. Chairman. There's
5 two issues going on here with regard to the one Bob
6 just raised. You would not enter the system if you
7 couldn't do it under existing authorities unless
8 somebody gave you more authorities. That's a legal
9 situation. It could not. And that's the way we've got
10 this set up, and that's the structure.

11 The second one, Mr. Chairman, just to flag an
12 issue, people have -- obviously there's a need for
13 additional clarity about who approves the nominations,
14 right? How do you actually take a nomination that's
15 gone through the entire process and actually say it's
16 in the new system? That question has surfaced now, and
17 I'm prepared to make a motion at the appropriate time
18 to add that as one of the duties under implementation
19 to the national level discussion.

20 MR. PETERSON: Okay. But we wouldn't take
21 that up now.

22 DR. BROMLEY: We don't want it now.

1 MR. BENTON: You want to take that up?

2 DR. BROMLEY: We do not want it now.

3 MR. PETERSON: No. I think we need to hold
4 that.

5 MR. BENTON: Yeah. Oh, yeah. No, I'm just
6 signaling an intent to try and clarify that.

7 DR. BROMLEY: So, where are we on this?

8 MR. PETERSON: We delete that whole first
9 sentence we were proposing.

10 DR. BROMLEY: That would be my suggestion.

11 MR. BENTON: Start with "In addition."

12 MR. PETERSON: Yeah, start with "In addition."

13 DR. BROMLEY: Start with "In addition."

14 MR. BENTON: That's your suggestion.

15 DR. BROMLEY: Yeah.

16 MR. PETERSON: To make it grammatically
17 correct, as our chairman has said, I would suggest
18 since sites don't address anything -- assess something
19 --

20 DR. BROMLEY: Yeah, right.

21 MR. PETERSON: -- say --

22 DR. BROMLEY: Sites be assessed or --

1 MR. PETERSON: -- sites proposed for inclusion
2 in the national system would be assessed --

3 DR. BROMLEY: Would be assessed.

4 MR. PETERSON: -- in accordance with the
5 following.

6 DR. BROMLEY: Yeah. Barbara?

7 MS. STEVENSON: Can't we say as to?

8 DR. BROMLEY: I'm sorry. What?

9 MS. STEVENSON: Can we just say as to?

10 MR. PETERSON: That's fine.

11 DR. BROMLEY: Yeah.

12 MS. WENZEL: Where is the "as to?"

13 MR. PETERSON: As to the following. That's
14 fine.

15 MS. STEVENSON: That was my language, so.

16 DR. BROMLEY: That's your idea, Barbara?

17 MS. STEVENSON: Yes.

18 DR. BROMLEY: Okay, Lauren.

19 In addition to addressing the steps noted above, newly
20 established sites proposed for inclusion in
21 the national system would be assessed --

22 MR. PETERSON: As to.

1 MS. STEVENSON: As follows.

2 MR. PETERSON: As follows.

3 MS. STEVENSON: As to the following.

4 DR. BROMLEY: Assessed as to the following.

5 Is that it? How's that?

6 MR. PETERSON: That's fine.

7 DR. BROMLEY: Are you ready to vote on this
8 one?

9 VOICES: Yes.

10 DR. BROMLEY: All in favor say aye.

11 (Chorus of ayes.)

12 DR. BROMLEY: Opposed?

13 (No response.)

14 MR. PETERSON: Mr. Chairman, I retire.

15 (Laughter.)

16 DR. BROMLEY: Look at this. Look at these two
17 guys.

18 MR. BENTON: I'll defer to him.

19 DR. BROMLEY: Book ends. You guys just leave
20 your hands up all the time, then I'll decide when I
21 want to call on you.

22 MR. BENTON: That's the deal.

1 DR. BROMLEY: Yes, David? And then Bob.

2 MR. BENTON: No, I'll defer to Bob, Mr.

3 Chairman. Go ahead.

4 DR. BROMLEY: Bob? You'd defer to David, huh?

5 MR. ZALES: No, I just -- I have a question on
6 number 3 and I've probably heard this answer before,
7 but I can't remember it.

8 DR. BROMLEY: Number 3 of which one, Bob?
9 Sorry.

10 MR. ZALES: On line 45. What is a non-
11 monetary economic effect?

12 DR. BROMLEY: Wait a minute, Bob. Page
13 number?

14 MR. ZALES: Page 12.

15 DR. BROMLEY: Page 12.

16 MR. ZALES: Line 45. Number 3 under Adding
17 New Sites, the first sentence. What is a non-monetary
18 economic effect? And you being a learned economist,
19 I'm deferring to you for a good answer.

20 DR. BROMLEY: Both monetary and non-monetary
21 effects. It is an effect that has not been monetized.

22 It is visitor days would be a non-monetary effect. We

1 do not put a dollar value on the visitor day. So it's
2 a non-monetized. Maybe we should say rather than --

3 MR. ZALES: Well, see, the way it reads, it
4 says the economic effect --

5 MR. BENTON: Point of order, Mr. Chairman.

6 MR. ZALES: -- of the proposed MPA.

7 DR. BROMLEY: What?

8 MR. BENTON: Point of order.

9 DR. BROMLEY: Point of order. Yes?

10 MR. BENTON: We have a motion that's been
11 amended that's on the table. If we're going to get
12 into this discussion, we should probably adopt the
13 motion and then go to new items.

14 DR. BROMLEY: That's right. Thanks.

15 MR. PETERSON: I move the adoption of the
16 motion as amended, which is what we're on now.

17 DR. BROMLEY: Yeah.

18 MR. LAPOINTE: Second.

19 DR. BROMLEY: Okay. So now we're back to
20 this. Thanks for the point of order, David.

21 MR. BENTON: We've got the whole package in
22 front of us now, as amended.

1 MR. PETERSON: All we've got to do is vote one
2 more time.

3 MR. BENTON: And all we've got to do is vote
4 it all up and down.

5 MR. PETERSON: Yeah.

6 MR. BENTON: We've already had a vote on all
7 the amendments.

8 MS. STEVENSON: I need clarification as to --
9 I understand all the motions we moved to amend, but
10 what's the original motion that we're now voting on?
11 Is it up there for us to see?

12 DR. BROMLEY: It is the unamended -- yeah, it
13 was a collection of things. David, are you going to
14 clarify this?

15 MR. BENTON: I'll clarify it to a degree. The
16 main motion that we started with was my motion on this
17 list to do this.

18 MS. STEVENSON: Yep.

19 MR. BENTON: We have subsequently made a bunch
20 of amendments that are on that board that I do not have
21 and cannot read right now.

22 MS. STEVENSON: Right.

1 MR. BENTON: That's all we're voting on.

2 MS. STEVENSON: I understand.

3 MR. BENTON: Yeah. That's all we're voting on
4 now. It's that whole package of amendments plus my --

5 MS. STEVENSON: Plus your original --

6 MR. BENTON: Plus my original on this, which
7 was basically to get rid of 3 and 4, which he went
8 through as we discussed it.

9 DR. BROMLEY: Are we okay?

10 MS. STEVENSON: So we already took care of the
11 other part of your original?

12 MR. BENTON: That's correct.

13 MS. STEVENSON: That's all I couldn't
14 remember. Fine. Okay.

15 DR. BROMLEY: Tony?

16 DR. CHATWIN: Get rid of 3 and 4? I didn't
17 follow you.

18 MR. BENTON: We can't hear you.

19 DR. CHATWIN: I didn't follow, get rid of 3
20 and 4 on this list?

21 MR. PETERSON: No. They stay there.

22 MR. BENTON: They stay there.

1 DR. CHATWIN: Stay where?

2 MR. PETERSON: They stay in the motion. I
3 just read those for clarity but said they were part of
4 the original motion.

5 MR. BENTON: Mr. Chairman?

6 DR. BROMLEY: Yeah, David. Just a minute.

7 MR. BENTON: I'm going to clarify the
8 question.

9 DR. BROMLEY: All right. Go ahead.

10 MR. BENTON: I made a motion that included
11 accepting Max's recommendations to delete these
12 languages in 3 and 4 only. That was the motion that
13 was tabled at noon.

14 We brought that table back before us. We've
15 amended it to include other deletions and changes as we
16 have just gone through for the past 45 minutes or so.

17 That then

18 -- those were amendments to my original motion, which
19 was simply to accept Max's changes on items number 3
20 and 4.

21 So now what you have in front of you is a
22 motion of 3, deleting 3. We made a modification, an

1 amendment, to my motion with regard to item 4, and then
2 a whole series of other things. That's the motion
3 before you, Tony.

4 DR. BROMLEY: Okay. May we assume that
5 everyone is clear? Tony, is that -- you feel okay now?

6 DR. CHATWIN: Yeah. Thank you.

7 DR. BROMLEY: The question. All in favor say
8 aye.

9 (Chorus of ayes.)

10 DR. BROMLEY: Opposed?

11 (No response.)

12 DR. BROMLEY: Okay. David, is your hand up?

13 MR. BENTON: Surprise, surprise, Mr. Chairman.

14 Given the action that we just took, there is one minor
15 cleanup item that needs to occur. It is on page 11,
16 line 25, and I'm doing this only -- I could have done
17 it previously, but it would have just gotten everybody
18 all confused. But now that we've done that, the
19 changes we made in the text above that line 25, we need
20 to strike the parens nonfederal, because it's not
21 exactly correct. The language should just read: In
22 the case of both existing and new sites, nominations

1 will require.

2 DR. BROMLEY: Right. I believe that's --

3 MR. BENTON: That's my motion, Mr. Chairman.

4 DR. BROMLEY: -- perfectly sensible.

5 MR. PETERSON: Second.

6 DR. BROMLEY: It's been seconded. Max, did
7 you second it?

8 MR. PETERSON: Yes sir.

9 DR. BROMLEY: Is everybody clear where we are?

10 Page 12, line 25. I'm sorry, page 11. Thank you.

11 Page 11, line 25. We're just getting rid of the
12 parens, nonfederal. Is that okay?

13 Ready for the question? All in favor say aye.

14 (Chorus of ayes.)

15 DR. BROMLEY: Opposed?

16 (No response.)

17 DR. BROMLEY: Okay. Where are we? David?

18 MR. BENTON: Mr. Chairman.

19 DR. BROMLEY: And Wally.

20 MR. BENTON: I defer to Wally, Mr. Chairman.

21 I'm talking too much.

22 DR. BROMLEY: Oh, no, not at all.

1 DR. PEREYRA: In terms of cleaning up
2 something on page 3 this morning, number 2 on page 3.
3 It's line 27. We eliminated "ecosystems and." That's
4 a highlighted item for inclusion in the glossary.

5 DR. BROMLEY: Yeah.

6 DR. PEREYRA: If you go back to the appendix,
7 it's got the glossary. That needs to be changed so
8 that it's consistent.

9 DR. BROMLEY: That's correct. Wonderful.

10 DR. PEREYRA: You need to strike "ecosystems
11 and" from that.

12 MR. PETERSON: And make it marine habitat.

13 DR. PEREYRA: Marine habitats, and do the same
14 thing down in the next line, line 30, and then strike
15 everything that starts with "an ecosystem comprises,"
16 that entire sentence. I believe that makes it
17 consistent with --

18 DR. BROMLEY: Max, do you second this or what?
19 How do we -- what are we doing? Is this a motion,
20 Wally?

21 MR. PETERSON: I'm going to agree with this,
22 but let me suggest that I think we need to give the

1 chair and the secretary authority to make technical and
2 conforming changes that don't change any substance,
3 because that's a requirement. So I think if we do
4 that, you can go through and Lauren can clean it up,
5 and it wouldn't -- we would say this does not make any
6 substantial changes, but there's places where something
7 ought to be plural or something where it's not a
8 complete sentence. There are some of those things in
9 there. And we ought to give you license to approve
10 those changes without coming back to the committee.

11 DR. BROMLEY: I will do this. I will pledge
12 to compile a list of those changes that we make.

13 MR. PETERSON: And just give it to us for
14 information?

15 DR. BROMLEY: Give it to you so you will know,
16 so we are exposed in that regard.

17 MR. PETERSON: But what I would do is simply
18 second Wally's motion with an amendment that says and
19 other changes in the document that are necessary to
20 correct typographical, grammatical and other changes
21 necessary to make the document read well, and not
22 substantial changes.

1 DR. BROMLEY: And would you like to add that
2 the chair will make available to the full FAC a list of
3 the changes that have been made?

4 MR. PETERSON: Yes sir.

5 DR. BROMLEY: I'd like to do that.

6 MR. PETERSON: That would be great.

7 DR. PEREYRA: I accept that.

8 MR. PETERSON: Okay. Thank you.

9 DR. BROMLEY: Has it been seconded?

10 MR. PETERSON: I seconded it, yes.

11 DR. BROMLEY: Yeah. All right. Discussion?
12 Yes, Kay.

13 MS. WILLIAMS: I have a question. The
14 highlighted green where it refers to add Zales' P here,
15 what does that mean?

16 MS. WENZEL: I was putting in changes and I
17 didn't get to finish, so.

18 MS. WILLIAMS: Oh, okay. All right. I'm
19 sorry.

20 MS. WENZEL: So, it's just what we discussed
21 this morning.

22 MS. WILLIAMS: Thank you.

1 MR. PETERSON: That's notes to the editor.

2 MR. BENTON: Question.

3 DR. BROMLEY: Yes?

4 MR. BENTON: No, I'm calling for the question,
5 Mr. Chairman.

6 DR. BROMLEY: Yeah. Are we ready for the
7 question on this? All in favor say aye.

8 (Chorus of ayes.)

9 DR. BROMLEY: Opposed?

10 (No response.)

11 DR. BROMLEY: All right. David, is your hand
12 up?

13 MR. BENTON: Mr. Chairman?

14 DR. BROMLEY: Yes sir.

15 MR. BENTON: Even though we gave you the
16 authority to make technical changes, I have another
17 cleanup bit that I would propose.

18 DR. BROMLEY: Okay.

19 MR. BENTON: Page 11, line 38. Given the
20 change that we made with regard to access and Wally's
21 provisions slightly earlier, I would propose the
22 following, Mr. Chairman. On item number 3, line 38,

1 page 11, where it says "Describe the current site
2 status," I would add in, "and the purpose of the
3 nomination." I would insert that right there and then
4 continue on. That's the only change. And if I have a
5 second, I'll speak to it.

6 MR. ZALES: Second.

7 MR. BENTON: Mr. Chairman, the reason for that
8 is that we, in the previous action, we identified that
9 there should be a purpose or concerns identified. I'm
10 just trying to make that clear here, that the
11 nomination document needs to have that discussion, and
12 that's what I'm doing.

13 DR. BROMLEY: Okay. Bonnie?

14 DR. McCAY: Mr. Chairman, it seems to me that
15 that is already done in number 1 on line 28 of that
16 section. It says explain why the site should be part
17 of the national system. So that's why I would think
18 that would be redundant and very well covered by number
19 1.

20 MR. BENTON: Mr. Chairman?

21 DR. BROMLEY: Yes, David.

22 MR. BENTON: The reason I'm doing that, and

1 I'm more than open to dropping this amendment if we put
2 the word "purpose" somewhere else, but I want -- I
3 think it needs to be very clear that we need to have a
4 clear and succinct statement of the purpose of the
5 nomination.

6 MR. PETERSON: I think you can put that up
7 under 1, just add the word "purpose" there somewhere.

8 DR. BROMLEY: Yeah. Would you accept that,
9 David? Up in 1. Explain why the site should be part -
10 - explain why the site -- the purpose in there? The
11 purposes to be served.

12 MR. BENTON: Mr. Chairman?

13 DR. BROMLEY: Yeah?

14 MR. BENTON: I will drop my, with the
15 concurrence of my second, I will drop my proposed
16 amendment and make a different one.

17 DR. BROMLEY: Yeah.

18 MR. BENTON: Okay.

19 DR. BROMLEY: Okay.

20 MR. BENTON: Does my second -- I it's Bob that
21 seconded it, or was it you?

22 MR. ZALES: Let me hear your different one and

1 I'll decide.

2 (Laughter.)

3 MR. BENTON: All right. Here's my different
4 one. My different one is on line 28, I would amend the
5 second sentence to read:

6 Describe the site, the purpose of the nomination, and
7 its contributions.

8 DR. BROMLEY: I'm sorry. Not the purpose of
9 the nomination, David, the purpose for including the
10 site in an MPA.

11 MR. BENTON: The purpose of the site, yes.

12 DR. BROMLEY: What purposes shall be served by
13 this site, I think. Sorry, but -- right?

14 MR. BENTON: No, you're right.

15 MS. WENZEL: Can you read it one more time?

16 MR. BENTON: He had better words than I did.

17 MR. PETERSON: The purposes to be served.

18 DR. BROMLEY: The purpose to be served by --

19 MR. ZALES: Could I offer something? Terry
20 was doing this, and I'll lay this out to David and see
21 if he can do it. Instead of playing with number 3 and
22 number 1, simply add "describe the purpose" in front of

1 "explain."

2 MR. BENTON: "And describe the purpose and
3 explain."

4 MR. ZALES: I like that. Describe the purpose
5 and explain. You're making the motion. I'll second
6 it. Then I'll drop my -- I'll say it's okay.

7 MR. BENTON: Mr. Chairman, I drop everything I
8 ever did before that's still on the table, and I'll
9 take his words as a motion.

10 DR. BROMLEY: "Describe the purpose and
11 explain why the site should be part of the national
12 system."

13 MR. BENTON: Yes.

14 DR. BROMLEY: Very good, Bob. Is that okay?

15 DR. McCAY: Mm-hmm.

16 DR. BROMLEY: Tony?

17 DR. CHATWIN: It's okay.

18 DR. BROMLEY: Barbara, your hand was up.

19 MS. STEVENSON: I had no problem with your
20 original suggestion. My problem now is the purpose --
21 there could be two different purposes for the site. It
22 could be the purpose that the site was designated for.

1 And maybe the purpose is commercial fishing, or maybe
2 it's habitat protection.

3 But there's also a reason that it's being
4 nominated to be added to the system. And I think it's
5 important for people to understand both what the
6 designated purpose of the site was and is and what
7 function it will serve in the national system, which
8 could be two different things.

9 So it needs to be clear that we want to know
10 what their original purpose for the site was, you know,
11 why was the site originally designated or why are you
12 suggesting a site if it's a new site? And why you
13 think it should be part of the national system. And I
14 don't have the exact correct words.

15 DR. BROMLEY: I've got Tony and then Tundi.

16 DR. CHATWIN: Along these lines, I'd say
17 describe the purpose of the site and explain why it
18 should be.

19 MS. STEVENSON: Excellent.

20 DR. BROMLEY: Describe the purpose of the
21 site. Barbara, does that address your issue?

22 MS. STEVENSON: That's fine. And why it

1 should be. That solves my problem.

2 DR. BROMLEY: And explain why, why it should
3 be part of the national system. Is that it, Barbara,
4 Tony?

5 MS. STEVENSON: That's fine.

6 DR. CHATWIN: And I just have a question on
7 the process. It's independent of this.

8 DR. BROMLEY: Yeah.

9 DR. CHATWIN: I think we seem to be dealing
10 with details here that don't affect the substance, and
11 we still have some big issues to discuss. And I would
12 just encourage us all to move on to those big issues.

13 DR. BROMLEY: Thank you.

14 DR. CHATWIN: Thank you.

15 DR. BROMLEY: Tundi?

16 DR. AGARDY: Pass.

17 DR. BROMLEY: All right. Are you ready for
18 the question on this change? All in favor say aye.

19 (Chorus of ayes.)

20 DR. BROMLEY: Opposed?

21 (No response.)

22 DR. BROMLEY: All right. It's ten till three.

1 We have the need, I gather, for some way to capture on
2 the screen I guess all the changes that we've made. Is
3 that correct? People probably would like to see them.

4 But we do not have time to go back now and start
5 recrafting all of those changes once you see them.

6 We have got to vote. We have got to declare
7 where we stand, and I want us to do it. And I want us
8 to do it by three o'clock or so. Gil?

9 MR. RADONSKI: Before I'm prepared to vote, I
10 would like to hear from Charlie Wahle on the work that
11 we have done and the number of sites that he has under
12 the list of managed areas and tell us what he thinks of
13 what we've done and how it pertains to that list.

14 DR. BROMLEY: I'm sorry, what?

15 MR. RADONSKI: We've essentially finished this
16 document, right? And you want to vote on it.

17 DR. BROMLEY: That's correct.

18 MR. RADONSKI: Is that correct?

19 DR. BROMLEY: I believe so.

20 MR. RADONSKI: And I would like some comments
21 from Charlie on how this thing that we have crafted
22 would interact with the number of sites that he has

1 identified, some what, 1,500, Charlie, or 2,000, and
2 how that's going to play out.

3 DR. BROMLEY: Are you sure this doesn't put an
4 unfair burden on a federal employee could --

5 MR. RADONSKI: Could be.

6 DR. BROMLEY: Huh?

7 MR. RADONSKI: It could.

8 DR. BROMLEY: I would wonder about this on
9 procedural grounds, Gil, with all due respect.

10 David?

11 MR. BENTON: Mr. Chairman, I would be
12 concerned about putting anybody in that position on a
13 recommendation from this group. I mean, it might put
14 him in a very uncomfortable spot. I don't know. I
15 know having served in state and federal agencies,
16 sometimes that spot can get a little bit warm. And I
17 would not want to put somebody in that situation.

18 DR. BROMLEY: I don't want to do it either.
19 I've got David, okay. And then I've got Dolly. Let me
20 make sure I have a list here complete. Rod? Okay.
21 Then Max. And Wally. Let's see. Dolly, Rod, Max,
22 Wally and Mike. You each have a minute.

1 MR. BENTON: You had me first.

2 DR. BROMLEY: Yes. You first, David.

3 MR. BENTON: Thank you.

4 DR. BROMLEY: You're always first in my eyes.

5 MR. BENTON: There's -- and I'm very mindful
6 of the timeline that you laid out.

7 DR. BROMLEY: You're not going to propose new
8 wording are you?

9 MR. BENTON: There is an issue that was not
10 addressed that floated up around this table several
11 times, and I have signaled that I had an amendment, and
12 that is, what happens to the nominations and who
13 approves them? And it's very simple, Mr. Chairman, if
14 you want me to do it. Otherwise, I can just shut up.

15 DR. BROMLEY: Well, don't give me that choice,
16 I caution you.

17 (Laughter.)

18 DR. BROMLEY: Well, do it, David, please.

19 MR. BENTON: All right, Mr. Chairman.

20 DR. BROMLEY: Just in a friendly way. Where
21 do you want to look?

22 MR. BENTON: Page 13, Mr. Chairman, line 45.

1 DR. BROMLEY: Page 11?

2 MR. BENTON: No, 13.

3 DR. BROMLEY: Thirteen.

4 MR. BENTON: Line 45.

5 DR. BROMLEY: Line 45.

6 MR. BENTON: It would be new number 1.

7 DR. BROMLEY: It would be what?

8 MR. BENTON: A new number 1.

9 DR. BROMLEY: A new number 1?

10 MR. BENTON: A new number 1.

11 DR. BROMLEY: In addition to our list?

12 MR. BENTON: Yes.

13 DR. BROMLEY: Yeah.

14 MR. BENTON: And it would be very simple. And

15 if you'll recall, this is at the national level. The

16 national entity charged with coordinating the system,

17 blah, blah, blah, would -- and the new number one would

18 be: Accept or reject nominations from the regional

19 body to the national system, period. That would make

20 very clear where that decision lies.

21 MR. LAPOINTE: Second.

22 DR. CRUICKSHANK: State that again, would you?

1 MR. BENTON: Okay.

2 DR. CHATWIN: Where are we?

3 MR. BENTON: Page 13.

4 DR. BROMLEY: We're on page 13, line 45 I
5 guess is where some new language wants to be put in.

6 MR. PETERSON: In all fairness, David, I don't
7 think the person that's put in charge of this process
8 will necessarily have that authority. It might take
9 the --

10 MR. BENTON: A secretary?

11 MR. PETERSON: It make take a secretary of the
12 department. It might take the president in some cases.

13 It might take an Indian tribe. So the entity that
14 receives these nominations should have a responsibility
15 for advising the people on the actions taken, but you
16 can't put them in a position of having to approve or
17 reject them, because they may not have that authority.

18 MR. BENTON: Mr. Chairman, I think I'm going
19 to withdraw my motion because it's going to spin you
20 into a lot of discussion. I was trying to make it
21 clear we have a national system. At the national
22 level. Somebody has to accept the nomination and put

1 it in the system.

2 MR. PETERSON: I agree with that. Somebody
3 would accept and see that action is taken on the
4 proposal, but they couldn't be required to accept or
5 reject it, because that may be way beyond their
6 authority.

7 DR. BROMLEY: Okay. Where are we? Are you
8 going to withdraw it, David?

9 MR. BENTON: Do you want me to?

10 MR. PETERSON: I think you should. I think
11 you should, David.

12 MR. BENTON: I will withdraw it, Mr. Chairman.

13 DR. BROMLEY: I have no opinion, but I would
14 defer to Max Peterson.

15 MR. BENTON: I'm fine, Mr. Chairman. I
16 withdraw the --

17 DR. BROMLEY: Okay. Thank you. Very gracious
18 of you. Okay. What's the sense of the group?

19 MR. LAPOINTE: There's not much sense left.

20 (Laughter.)

21 DR. BROMLEY: I noticed that early yesterday,
22 George, but I couldn't really say it. Okay. Let's

1 have just a few minutes here, brief kind of thing.

2 What's the sense of the group? Tundi, Wally, Bob.

3 DR. PEREYRA: Mr. Chairman --

4 DR. BROMLEY: I'm sorry.

5 DR. PEREYRA: Go ahead, Tundi.

6 DR. AGARDY: How dare you go in front of me?

7 DR. PEREYRA: You were first.

8 (Laughter.)

9 DR. BROMLEY: Tundi, Wally and --

10 DR. GARZA: You had a list before that.

11 DR. BROMLEY: Yeah, but I thought the list was
12 to speak on David's thing which has been withdrawn.

13 Okay. I have a queue here. I have Dolly,
14 Rod, Max, Wally, Mike. Now Tundi.

15 DR. GARZA: Okay. I was trying to get in
16 there because we were going for the three o'clock vote.

17 If we did have a list of narrow issues, and under that
18 2, 3 and 4 are mine, which can easily be dealt with, I
19 believe. The first one was on replacing local
20 ecological knowledge, traditional ecological knowledge,
21 experienced-based knowledge with customary and local
22 knowledge.

1 I have the pages and the lines if you want
2 them, but I don't think that's necessary. I can give
3 those to Lauren.

4 DR. BROMLEY: Yep.

5 DR. GARZA: That would also require adding
6 local knowledge as a definition, removing local
7 ecological knowledge, traditional ecological knowledge
8 and traditional knowledge from the definition, so
9 that's a piece of cake I think.

10 The second one, my issue was on stewardship.
11 And the commitment is in there, but I think that line
12 28, all we need to do is change the word "it" to
13 "stewardship," because it just isn't clear to me. So
14 just stewardship requires commitment.

15 MR. LAPOINTE: What page?

16 DR. GARZA: Page 14, line 28.

17 DR. BROMLEY: Page 14, line 28. It also
18 appears on line 32. It appears on page 15, line 20,
19 22, 26; and page 17, line 28. So we've got commitment
20 in there a number of times. But Dolly is talking about
21 page 14, line 28.

22 DR. GARZA: Right. So stewardship requires a

1 commitment. So that just makes it more clear.

2 DR. BROMLEY: Are people okay with that? We
3 can do these by acclamation if we can. Is that okay?

4 VOICES: Yes.

5 DR. GARZA: Okay. Then page 16, line 20 on
6 the sentence ending "power sharing," I would put in
7 parentheses "(e.g. co-management)."

8 MR. PETERSON: I cannot accept that, because
9 states are not allowed to accept co-management of fish
10 and wildlife resources by their constitutions.

11 DR. GARZA: Alaska does co-manage.

12 MR. PETERSON: Well, okay, maybe so.

13 DR. GARZA: So, it's an example. It's an
14 example.

15 MR. PETERSON: Well, for example, when I
16 looked into this for the International Association of
17 Fish and Wildlife Agencies, there was only one or two
18 states that have that authority. In other states, the
19 fish and wildlife is held in trust for the people, and
20 the statutory authority that's there cannot be -- you
21 can't delegate co-management to somebody else, because
22 they ultimately have the authority.

1 So I think co-management opens up a whole can
2 of worms that we have not even discussed. I'm willing
3 to look at co-management in the future, but it's simply
4 -- at least 48 states out of the 50 it would be a
5 problem, I think. I don't know about Maine, George.
6 Maybe you want to talk about Maine.

7 DR. BROMLEY: Wally and George.

8 DR. PEREYRA: Well, in the North Pacific, we
9 definitely have co-management. I mean, it's part of
10 the process under --

11 DR. BROMLEY: But narrow it down to what we
12 mean by co-management. You probably call the council
13 process co-management.

14 DR. PEREYRA: No. No, this is a situation
15 where the federal government and the State of Alaska
16 jointly manage the resource and the federal government
17 has certain authorities that only the federal
18 government can have, and then the state is given sort
19 of in-season management authority. So that's kind of a
20 co-managed --

21 MR. PETERSON: That's a specific authority
22 that's in the Alaska Lands Act of 1980. And that's a

1 specific authority that applies there.

2 DR. BROMLEY: Okay. What are small issues are
3 getting complicated, and I'm worried. Dolly, could you
4 back off of co-management, or can we say in parens, as
5 an example, where permitted by law, co-management? I
6 mean, can we finesse this and move on? Because this is
7 not a small issue. This is a big issue.

8 Terry?

9 MR. O'HALLORAN: I agree. This is not a small
10 issue to me. I like the co-management, and maybe
11 Hawaii is one of those states, but Hawaii co-manages
12 the Blackwell National Marine Sanctuary with the
13 federal government, so, I think this is an important
14 issue.

15 DR. BROMLEY: It's a big issue, because to
16 some people, co-management means the users and the
17 government agency are interacting -- are doing it
18 jointly, not states and feds. It is users and states.
19 So this is a big mess. It's a big deal.

20 George? I'm sorry. Bonnie, and then George.

21 MR. LAPOINTE: In the State of Maine, we have
22 in-statute co-management of the lobster fishery and the

1 urchin fishery, and we do that in a manner that does
2 not usurp our constitutional authority to manage fish
3 and wildlife. And, I mean, it certainly takes some
4 tinkering with language at the statutory level, but I
5 am comfortable with this kind of change.

6 Again, if I think about our use of existing
7 authorities throughout the document, I would use both
8 your statement and Max's that it occurs six times in
9 the document. And so if we have the authority to do
10 co-management in Maine or Alaska, that's good. And if
11 they don't in Arkansas -- that's a bad example because
12 they haven't had marine environments for about 300
13 million years, but you know what I mean. If they don't
14 have the authority, they don't have the existing
15 authority, the issue is over.

16 DR. BROMLEY: All right. Where are we?
17 Bonnie, and then we've got to stop this.

18 DR. McCAY: I agree. I think it would be good
19 to include co-management because it certainly is an
20 important where it does exist, it's extremely
21 important, as has been shown here.

22 But I would suggest that we just add, and

1 again, it may be redundant, but it may help: This will
2 depend on the cultural and legal context of the MPA.
3 Just to underscore Max's point that it is not always
4 allowed, or some forms of it may not be allowed.

5 DR. BROMLEY: Does that do any harm to put
6 that in like that? Bob?

7 MR. ZALES: Besides being blind, I'm going
8 deaf, too, but I missed the stuff about customary and
9 local knowledge somehow. I missed whatever changes
10 were going there.

11 DR. BROMLEY: We're asking the committee to
12 grant us the authority to make the substitution. We
13 had a special ad hoc subcommittee address this, and I
14 think we didn't get it all integrated into the document
15 and Dolly is asking them to go through the document and
16 use this language.

17 MR. ZALES: You're using customary and local
18 or you're replacing that with something else, is my
19 point.

20 DR. BROMLEY: Dolly?

21 DR. GARZA: Mr. Chair, we are replacing where
22 we have local ecological knowledge, traditional

1 ecological knowledge, experienced-based knowledge,
2 traditional knowledge, all with customary and local
3 knowledge.

4 MR. ZALES: Okay. I'm good with that.

5 DR. GARZA: Okay. So we're just trying to be
6 concise.

7 DR. BROMLEY: Okay. We're back on co-
8 management.

9 MR. PETERSON: I'm sensitive to the idea that
10 there's all kinds of power sharing out there, but co-
11 management means equal. If you look up the word, if
12 we're going to put in here as co-management without a
13 definition it goes to the dictionary.

14 MR. LAPOINTE: And you won't find it in the
15 dictionary.

16 MR. PETERSON: "Co" means equal in the
17 dictionary. Anyway, the point is that there's all
18 kinds of power sharing that can go on and should go on,
19 but co-management is one little idea of that. So I'm
20 okay with the word power sharing, but when you say,
21 e.g., co-management in isolation, that sort of
22 indicates that the only power sharing we're talking

1 about is co-management, and I don't think that's true.

2

3 We can -- there are federal statutes that
4 permit and encourage states and federal government to
5 enter into compacts and all kinds of things. But when
6 you talk about a private entity that's interested in
7 these areas, I know of no authority to co-manage with
8 individuals per se.

9 DR. BROMLEY: Okay.

10 MR. PETERSON: So anyway, I think it's -- I
11 would be willing to take this up in the future and work
12 with it and put in a definition of what we mean and so
13 on. But I think trying to insert it at this time is
14 just not going to work.

15 DR. BROMLEY: Dolly, would you be open to --

16 DR. GARZA: But it was. We did have it in
17 before. I'm not sure when it was taken out, but co-
18 management was in before. So I'm not trying to do any
19 11th minute switch here. I just did not earlier notice
20 that it was taken out.

21 DR. BROMLEY: David?

22 MR. BENTON: Try something here, Mr. Chairman.

1 Listening to the discussion and trying to find
2 somewhat of a middle ground that might be acceptable.
3 I'm not sure it will. And Dolly, I want to see the
4 thumbs up or down over there.

5 Mr. Chairman, I'm not going to make this as a
6 motion but I'm going to float it out as an idea and see
7 what happens first I think. I would think that we
8 could change the sentence so it would read: There must
9 be accommodations made for varying the degree of power
10 sharing, including cooperative management or other
11 institutional arrangements.

12 I did not use the word co-management. I used
13 cooperative managed and I used other institutional
14 arrangements, which would then provide the opportunity
15 for exploring all those varying kinds of legal or other
16 kinds of instruments for getting at what you're trying
17 to get at. I don't if that gets you halfway there or
18 not, Dolly. I'm sort of looking at you.

19 MR. PETERSON: I think that's a very good --

20 MR. BENTON: Before I make a motion.

21 DR. BROMLEY: Dolly, what do you think? She's
22 having a hard time agreeing with you, Benton. She'd

1 kind of like to, but, you know, it's hard. Mel?

2 MR. MOON: I would be favor of having the co-
3 management specifically listed. Co-management needs to
4 be specifically listed because it is an activity I know
5 in the State of Washington that we are engaged in.
6 It's a promotion of cooperation and that's the result.

7 But the title is co-management. So I would strongly
8 be in favor in keeping it.

9 I appreciate the language that was being
10 proposed by Bonnie to perhaps categorize it, you know,
11 or condition it that it's different from place to
12 place, but it's a very important issue to us.

13 DR. BROMLEY: All right. I have two more
14 speakers and then we're going to have to cut bait on
15 this one. We have Mike Nussman and Tony, and then
16 that's it.

17 MR. NUSSMAN: Mr. Chairman, I'm not speaking
18 towards co-management. I'm speaking towards in the
19 agenda we set out today, we had major issues, of which
20 I had a couple, that remain on there. And at this
21 point we're down to minor or narrow issues. Excuse me,
22 I didn't mean to use the word "minor."

1 At any rate, and I know you're pushing for a
2 vote, but let me just say on my behalf that I intend
3 to, before I vote for anything or before I vote
4 positively for anything, I intend to discuss the issues
5 I wanted to discuss. Thank you.

6 DR. BROMLEY: Okay. Good. Tony?

7 DR. CHATWIN: Thank you, Mr. Chairman. I was
8 just going to suggest that we specify like co-
9 management in Alaska, as an example, or co-management
10 in the State of Washington, so you don't have this
11 broad term that can be interpreted applying everywhere
12 but that it's more as an example.

13 DR. BROMLEY: Mel?

14 MR. MOON: I'd like to propose some language
15 in that statement. If we could put it in parentheses
16 with the e.g. and say co-management or other
17 institutional arrangements as appropriate and just end
18 it at that. Because it will be different from
19 everyplace.

20 MR. BENTON: I'd second that if that's a
21 motion.

22 DR. BROMLEY: It's close to your original idea

1 I think, David. Use the word cooperative and other
2 institutional arrangements. Okay? Dolly, is that all
3 right? Thumbs up. Is everybody okay on this? Mike?

4 DR. CRUICKSHANK: I'm getting a little
5 confused, Mr. Chairman, because I think you're
6 confusing me with Mike Benton there or he with me. Are
7 we on these narrow issues or are we still on this?

8 DR. BROMLEY: I'd like to get this one done,
9 and then we're going to have to -- I had no idea it
10 would take this long.

11 DR. CRUICKSHANK: My company wants to be on
12 the broader issues, the major issues.

13 DR. BROMLEY: I know.

14 DR. CRUICKSHANK: I'll leave it until then.

15 DR. BROMLEY: All right. Dolly, are we okay?
16 Are people clear on this language? All right. All in
17 favor of this substitution, say aye.

18 (Chorus of ayes.)

19 DR. BROMLEY: Opposed?

20 VOICE: No.

21 DR. BROMLEY: Okay. All right. The major
22 issues that we had on our list were funding. People

1 kept saying we have not given enough attention to
2 funding. And we did a search and we list funding in
3 four different places. I'm asking people who expressed
4 apprehension about the fact that we had ignored funding
5 to accept the idea that on page 9, line 8, page 10,
6 line 19, page 12, line 28, page 13, line 46, we mention
7 funding. If you don't believe me, look at it. If it's
8 not adequate, then I want a simple way to fix it, and
9 we're going to keep moving.

10 DR. FUJITA: Fourteen, line 2.

11 DR. BROMLEY: Also -- did I miss one, Rod?

12 DR. FUJITA: Page 14, line 2, we speak to
13 sustainable funding.

14 DR. BROMLEY: Okay. Tundi, is your hand up?

15 DR. AGARDY: Yes, my hand was up.

16 DR. BROMLEY: Okay.

17 DR. AGARDY: And I wanted to help out a little
18 in that I think that several of the big issues that are
19 still remaining could be lumped. The funding, the
20 incentives, and I know that I had a narrower issue is
21 mention the need to talk more about the benefits of the
22 system.

1 And I'm not going to -- that's not going to
2 prevent me from being able to vote at any time, but I
3 think that -- I understand that there are many places
4 that funding is mentioned, but I don't think we give a
5 very strong case for the value added of a national
6 system right now. And I think this could be very
7 easily fixed by at least one sentence to be added in
8 page 13, line 46 or 47, which would say -- I don't know
9 if you want the proposal.

10 DR. BROMLEY: Yeah, give us the sense of it.

11 DR. AGARDY: Okay. There are a couple of
12 sentences here in the first bullet item page 13, line
13 46, Provide additional funding for entities managing
14 MPAs. And I would suggest that we say provide
15 additional funding and other incentives for entities
16 managing MPAs. And I would then also say that we could
17 expand this list to include not just matching funds or
18 special allocations, and I would actually take out the
19 "to offset the incremental costs," because I think if
20 you're merely offsetting incremental costs of being in
21 the system, you're not providing any kind of financial
22 incentive.

1 So I would erase the "to offset," and I would
2 say including training programs for managers, exchange
3 programs for managers. I don't want to introduce a
4 whole bunch of new language. But I'm trying to get at
5 the idea that we could talk about other kinds of
6 incentives in that section without spending a lot of
7 time on this.

8 I don't know if John has -- has John brought
9 up the incentive idea originally. I also think that we
10 should mention, if it's possible, and I defer to Max
11 and other people who have more experience with the
12 federal entities, but the idea of looking to the
13 private sector for an MPA trust fund.

14 DR. BROMLEY: Okay. I have a fervent request,
15 and that is that all sides, all of us start to make a
16 list of the things that we acknowledge have been
17 inadequately addressed in this document and recommend
18 that in the next incarnation of this body that they be
19 given immediate and careful attention.

20 And I understand, Tundi, the importance of
21 funding, incentives, all of this stuff, but we're now
22 after three o'clock and we seriously underestimate how

1 long it will take us to work our way through what seems
2 very simple, obvious stuff. And it's got to stop. And
3 so everybody's going to have to pull back on their wish
4 list, and we're going to have to build a wish list that
5 goes on the last page of this report that says, gosh,
6 we wish we had had more time and more wisdom to address
7 this and this and this and this and this.

8 And I guess Mike has declared he wants to talk
9 about some big issues. Everybody wants to talk about
10 some big issues, some small issues, and we've got to
11 finally decide when are we going to make a list and
12 when are we gong to approve this thing and get on with
13 life, okay? I'm sorry.

14 So, Mike, Tundi, I'm sorry, but, you know, we
15 are running out of time. And it's time for all of us
16 to take our wishes and put them over on a piece of
17 paper and let's see what they look like.

18 MR. PETERSON: Mr. Chairman, I think I agree
19 with your exhortation. I would like -- Mike had a
20 major issue he talked about yesterday. I'd like for us
21 to listen to that now.

22 DR. BROMLEY: I would. I would. And there

1 must be other -- we've got a list. I want to hear what
2 Mike's major issues are.

3 MR. PETERSON: We might be able to resolve
4 his.

5 DR. BROMLEY: We might.

6 MR. PETERSON: So I'd suggest we listen to
7 Mike.

8 DR. BROMLEY: But we've got to get doing it.
9 Mike, I give you the floor. And Barbara next.

10 MR. NUSSMAN: Mr. Chairman, as some may know,
11 I and many in the recreational community are not
12 terribly enthralled with an idea of a nation system of
13 MPAs. It's not something that's just near and dear and
14 you know, really close to our hearts. So in going
15 ahead and signing off on a document like this, we look
16 for what's in there for us, as I think most folks do.

17 One thing that's in here that I think is very,
18 very important to us is the idea of evaluation,
19 monitoring and adaptive management, if I could say, in
20 the sense that not only do we establish a system,
21 probably our worst fear is we establish a system and
22 then have no money to go do any of the evaluation, the

1 monitoring, the adaptive management that we would like
2 to see have happen. We don't get better at it.

3 And so with that said, and if I were to sign
4 off to a document like this, I need a statement that
5 says before we forward and start establishing new
6 systems, new sites, we need to have a reasonable
7 expectation that we're going to get some money to go
8 out and do what needs to be done.

9 What I'm not prepared to do is to support a
10 document that says we're going to, you know, establish
11 new sites and then maybe one day sometime soon if we're
12 all lucky, Congress will appropriate a dollar or two to
13 make them actually, to be able to go in and look at
14 them and see if they're getting anything done.

15 The proposal or the discussion yesterday by
16 the New England Council, while in one sense I thought
17 it was very interesting, also scared the hell out of
18 me, because here where no area has received more
19 attention than New England when it comes to looking at
20 fisheries, yet they've got all these closed areas
21 they've never gone back and really evaluated their
22 effectiveness or in fact done any sort of updating on

1 what, you know, sort of, even looked strategically at
2 what the future should be if they wanted to close
3 sites, change sites, et cetera.

4 Anyway, you get my point. At lunch, I don't
5 want to include anyone else with this particular
6 language, I may have Rod help me. It's his writing, so
7 I'm going to try and read it here. We came up with a
8 sentence and I won't suggest exactly where it would be,
9 but the language would read:

10 Additions of MPAs to the national system should be
11 contingent upon a reasonable expectation of
12 funding to accomplish the goals and objectives
13 of the MPAs, including enforcement,
14 evaluation, monitoring, and adaptive
15 management.

16 DR. BROMLEY: Second, second. Pardon, Tony?
17 What did you say?

18 DR. CHATWIN: Point of clarification. Mike,
19 you mentioned in your preamble to the language, you
20 mentioned new sites and now you say "sites." So I just
21 want to know what you're talking about.

22 MR. NUSSMAN: Well, I would certainly like to

1 have the entire program funded, I think our
2 conversation at lunch was more focused on new sites. I
3 believe that's right. But I want to look to others
4 that were there to see if they nod their head with me.

5 MR. PETERSON: Yeah. We weren't trying to get
6 rid of existing sites.

7 DR. CHATWIN: No, I didn't say. I just want
8 to be clear. It's not the action of adding existing
9 sites to the national system, it's adding new sites?

10 MR. NUSSMAN: That's correct. I think that's
11 what the conversation was all about.

12 DR. BROMLEY: Mike, if this language were
13 adopted in the document, how far would this get you
14 towards --

15 MR. NUSSMAN: Mr. Chairman, I don't have great
16 needs at this point. I want to talk about harm. I
17 think that's an issue that I think is important, but I
18 would like to see this language being added to the --

19 DR. BROMLEY: I appreciate you coming in with
20 this with you. So if we can get this language in, does
21 that put you at ease?

22 MR. NUSSMAN: This language with this issue

1 puts me at ease. As I said, I'd like to speak to harm.

2 DR. BROMLEY: Is there anybody that could not
3 live with this language?

4 DR. MURRAY: Can we see it, Mr. Chairman?

5 MS. WENZEL: Do you want to read just the end
6 of it to me?

7 DR. BROMLEY: Additions of new MPAs to the
8 national system should be contingent upon a reasonable
9 expectation of funding --

10 MR. NUSSMAN: -- to accomplish the goals and
11 objectives of the MPA.

12 DR. BROMLEY: Is that it, Mike? That's it.
13 Additions of new MPAs to the national system should be
14 contingent upon a reasonable expectation of
15 funding to accomplish the goals and objectives
16 of the MPA, including enforcement, evaluation,
17 monitoring and adaptive management.

18 Jim?

19 DR. RAY: I just want to say I completely
20 agree with the recommendation. I think it's a very
21 important recommendation for the future that new MPAs
22 should be added and have adequate funding. Without it,

1 they can't succeed.

2 DR. BROMLEY: That's right. And we do say
3 that, but this is a better -- this is good. George?

4 MR. LAPOINTE: And its location? Have we
5 discussed that? It strikes me it's a general
6 principle. On page 9.

7 DR. BROMLEY: Rod, do you have?

8 DR. FUJITA: Yeah. I didn't consider page 9.
9 What I was thinking that it would go on page 12, line
10 34, just in front of "in addition to." So it would be
11 the first sentence under Adding New Sites.

12 DR. BROMLEY: The first sentence under Adding
13 New Sites. It opens that paragraph, Rod. Mike, is
14 that?

15 MR. NUSSMAN: I want it to be prominent. But
16 I think putting number one under adding new sites
17 probably does that.

18 MR. PETERSON: Mr. Chairman, if Mike would
19 move the adoption of this, I would second it.

20 MR. NUSSMAN: I will do that, Mr. Chairman.

21 DR. BROMLEY: Seconded, okay. Bob Zales?

22 MR. ZALES: My question I guess would be to

1 Mike and I guess under the word "evaluation" that
2 funding would be to help establish the baseline that
3 you're going to evaluate from for any new site to?

4 DR. BROMLEY: It's implicit there. We don't
5 want to --

6 DR. HIXON: I didn't hear that question.

7 MR. ZALES: Evaluation would include the
8 initial evaluation of a baseline to further evaluate
9 over time to see if it's meeting its goals and
10 objectives? Is that where you're going from?

11 MR. NUSSMAN: It's clearly our purpose. We
12 want enough money to do it right.

13 DR. BROMLEY: How are we doing here? Is that
14 okay, Mike?

15 MR. NUSSMAN: That's fine.

16 DR. BROMLEY: Does this help? Is this a net
17 gain? Okay. It helps? Are you ready to -- a question
18 on this?

19 MR. RADONSKI: Yeah, I have a question.

20 DR. BROMLEY: Okay, Gil.

21 MR. RADONSKI: Just for clarification, we're
22 talking about new sites. Tell me what the old sites

1 are. What's included with that? I don't know.

2 (Laughter.)

3 MR. O'HALLORAN: I'm sorry. It was George's
4 gesture next to you that was --

5 MR. RADONSKI: Nothing surprises me.

6 DR. BROMLEY: I think we've used the language
7 "existing," haven't we?

8 MR. RADONSKI: Which are the existing ones?

9 VOICES: There are none.

10 DR. BROMLEY: Here's an answer Charlie can
11 give. Yeah, George?

12 MR. URAVITCH: There's no way to tell, Gil, at
13 this point. I mean, we have a marine managed area
14 inventory. We have a certain set of information about
15 those sites, but until we go through the criteria and
16 set up the official criteria and set that, we're not
17 going to be able to tell you.

18 MR. RADONSKI: That's exactly what I was
19 asking before all the discussion and my comments just
20 got -- we're back there. That's fine.

21 MR. URAVITCH: Right. No, that's where we are
22 now.

1 MR. RADONSKI: I'm getting clear now. Thank
2 you.

3 DR. BROMLEY: Max?

4 MR. PETERSON: I think we should just say
5 additions to the national system, because those are not
6 now additions to this. They're not now part of the
7 national system.

8 DR. BROMLEY: Mike, additions to the national
9 system? Tony?

10 DR. CHATWIN: Going back to the comment I made
11 a little bit earlier, this is very important that we're
12 clear on this. I have an expectation that a subset of
13 the marine managed areas are going to become part of
14 this national marine -- system of marine protected
15 areas. My understanding is that when we talk about new
16 sites that have to be nominated, that have to go
17 through selection process, those are sites that don't
18 exist today. They are not part of the marine managed
19 area inventory.

20 What I fear is that this confusion about what
21 this language means, I fear there's an interpretation
22 of this language that it means we will not add existing

1 -- sites that exist already, that are part of this
2 marine managed area inventory, to a national system
3 without extra funding for the sites. And I think that
4 we need to really clarify that.

5 MR. NUSSMAN: My intent in seeking this was
6 not to go to -- not to leave -- to exclude sites -- not
7 to include the marine managed area sites, but was to
8 include any sites that were not on that list. If we go
9 further, we need to ensure that adequate funding is
10 there to add yet undesignated MPAs or MMAs to the
11 national system.

12 DR. CHATWIN: That's my intent. I'm
13 comfortable with that.

14 MR. NUSSMAN: Is that okay, Tony?

15 DR. CHATWIN: That's fine.

16 DR. PEREYRA: Mr. Chairman, point of
17 clarification/

18 DR. BROMLEY: Yes, Wally.

19 DR. PEREYRA: How would we deal with existing
20 MMAs that are not at the level where they would be
21 considered MPAs under the criteria we have, but that
22 through some sort of change in the objectives or

1 activities of that MMA and the way it's regulated that
2 in fact they become MPAs? They would be considered new
3 MPAs?

4 DR. BROMLEY: It's a new MPA, I believe.

5 DR. PEREYRA: Okay.

6 DR. BROMLEY: Tony? Is that okay, Tony? Are
7 we still all right? Barbara, and then Gil.

8 MS. STEVENSON: The problem -- I understand
9 why Tony is concerned about applying this to all the
10 old ones, but if you don't do that, you'll end up with
11 a system where the current ones will have no funding
12 and the new ones will have funding. And if you assume
13 that the current ones actually were designated first
14 for a reason, they're the ones that probably need the
15 funding the most.

16 So I have concern for it not applying to
17 everything.

18 DR. BROMLEY: Yeah, Tony?

19 DR. CHATWIN: The way I was thinking about it
20 is that existing sites that may have funding allocated
21 to them currently would require additional funding just
22 to become part of the system, even though they might

1 meet the criteria with their existing level of funding.

2 So adding them to the site would not add a
3 burden -- adding them to the system would not add a
4 burden to the system, because they meet the criteria
5 already. They exist already.

6 Now a new site could potentially add to the
7 burden, and so that's why I made the distinction.

8 MR. NUSSMAN: Mr. Chairman, I would tend to
9 agree with Tony's interpretation there. I would think
10 if it met the criteria and we said, yes it is in, then
11 we have determined that the funding was adequate to
12 accomplish the goals of the system.

13 Now obviously I wouldn't support putting
14 things in that didn't have the funding through hook or
15 crook, whichever method were to come, either new
16 funding or old funding, to accomplish those goals. But
17 it seems to me we've addressed that other places in the
18 document.

19 So what I'm trying to highlight here is any
20 sites that are not yet considered, we don't want to add
21 them and then try and find funding for them. We want
22 to make sure the funding is up front and then as we add

1 them we have the dollars available to do the work.

2 DR. BROMLEY: Is that okay with people? I
3 have Gil, I have Bob Zales, and I have Max.

4 MR. RADONSKI: Again, just for my personal
5 edification -- got that, George?

6 MR. LAPOINTE: I'm writing it down.

7 MR. RADONSKI: Okay. I'm teaching George new
8 words as we go along.

9 MR. LAPOINTE: And I'm grateful.

10 DR. BROMLEY: Sedimentation, you said?

11 MR. RADONSKI: The baseline here will be the
12 list that Charlie currently has. New sites will be
13 only those that are not on what Charlie has currently.
14 Is that what you are saying, Mike?

15 DR. BROMLEY: Joe is going to answer this.

16 MR. URAVITCH: We're still in the process of
17 collecting state information. Fisheries is clarifying
18 their final list based on the MMA criteria. So I guess
19 one way to approach it would be to put a date in by
20 which, you know, it was designated by whatever the
21 legal authority would happen to be. In a way, you'd
22 sort of grandfather those. Because, I mean, fisheries

1 councils are changing things on a routine basis, so
2 somewhere you'd want to decide where you're going to
3 draw a line, at least in terms of your recommendation,
4 what's new, what's not new.

5 DR. PEREYRA: Okay. The only thing I'm
6 concerned about is where the money is going to come to
7 take those sites that are currently on the MMA list or
8 whatever list we're calling it and getting it up to the
9 specs that would qualify under the national system.
10 That's my only concern. That's going to take a ton of
11 money.

12 DR. BROMLEY: Okay. I've got Bob Zales --

13 DR. PEREYRA: Especially under the parameters
14 that are listed for monitoring, et cetera.

15 DR. BROMLEY: Okay. I have Bob Zales, I have
16 Max, and I have Wally, and then I'd like to see if we
17 can't do something.

18 MR. ZALES: My thoughts are kind of like what
19 Joe mentioned and I guess other councils use this. I
20 know the Gov Council uses what they call a control
21 date. Generally it's a useless figure, but it's a date
22 that is like set up as of today, anything forward of

1 today is what would be required. If you got a new site
2 that's in there, then it would be funded. Anything up
3 till today is going to be under its own deal.

4 So I don't know if you want to establish them,
5 because once this all is done, once we finish up and
6 this goes to the two secretaries to deal with, I don't
7 know if this is going to be something that's going to
8 be considered for implementation tomorrow or a year
9 from now or ten years from now.

10 And so the longer you wait, the more new
11 things are going to come into play that would then fall
12 behind it. So we may want to recommend whether it's a
13 day today or six months in the future or whenever. But
14 I'm like Joe. I think maybe we should recommend a date
15 certain as to when this would kick in.

16 DR. BROMLEY: Okay. Max then Wally.

17 MR. PETERSON: Mr. Chairman, the heading of
18 this section is adding new sites. There are no sites
19 in the national system today. We propose a screen to
20 decide what existing sites become a part of the new
21 system. So we're talking about additions of MPAs to
22 the national system. It's not new, old or medium.

1 It's additions to the national system.

2 DR. BROMLEY: Correct. Thank you. Okay.

3 Wally and Mike.

4 MR. PETERSON: And I think if we just struck
5 the word "new MPA" and say additions to the national
6 system should be continued upon. Because I think to
7 leave the existing MPAs kind of floundering out there
8 that may not have funding would not be a good idea.
9 But when you add something to the new system, there's
10 nothing a part of a national system that I know of
11 today. There is no such thing as a national system,
12 right?

13 So I'm trying to help everybody understand
14 we're talking about funding.

15 DR. BROMLEY: Does that help? How do you feel
16 about that?

17 MR. PETERSON: Does that work?

18 DR. BROMLEY: Does that work?

19 MR. PETERSON: This is a national system.

20 MR. RADONSKI: That works for me. That's
21 where I thought we were going initially.

22 MR. PETERSON: Yeah. Additions to the

1 national system.

2 MR. RADONSKI: But does it clear it for Mike?

3 Because it's his motion.

4 DR. BROMLEY: Steven? Well, wait a minute.

5 I'm sorry. I have Wally and I have Mike.

6 DR. PEREYRA: Gil echoed my sense of reality
7 on funding.

8 DR. BROMLEY: Mike?

9 DR. CRUICKSHANK: My question there was that
10 there are a number of MPAs now existing which are cast
11 in concrete I understand, I assume anyway. And so if
12 they don't meet the funding requirements, are they
13 going to be eliminated and become -- what do they
14 become?

15 MR. PETERSON: They're not a part of the
16 national system.

17 DR. BROMLEY: Okay. Steve?

18 DR. MURRAY: Yeah. I need a little
19 clarification here. So there is no national system at
20 the moment. You're screening sites that have come
21 through an MMA and ultimately through an MPA filter.
22 When that's done, and if in fact a national system is

1 created by the secretaries, those sites that you have
2 indicated that qualify, are they enfranchised as the
3 national system as it gets created?

4 Or, we have a national system with nothing in
5 it, at which point in time we need to add sites to it,
6 including those that you have identified and any new
7 sites that become recognized?

8 If that's the case, then every site is a new
9 site, including those that will pass through your
10 filters that will qualify. So I think we have a
11 significant problem here that unless we have
12 clarification about how the national system is formed,
13 if it's formed and it's empty, then everything is new,
14 right?

15 If it's formed and made up of sites that
16 qualify, then we are really talking about what I think
17 Mike's intent is, is that if we go out now and find
18 some new places that want to go through this process,
19 then for every one of those new places, we need to have
20 some expectation, should have some expectation of
21 funding.

22 So, I think that's the dilemma, and I think we

1 all need to be clear on how that's going to go. So,
2 Joe, what is your understanding of how this national
3 system is formed? Is it loaded when it's formed, or is
4 it empty?

5 MR. URAVITCH: Our thinking so far has been
6 that sites already existing on the MMA inventory would
7 go through the MMA criteria, or MPA criteria to being
8 developed as part of this framework process and would
9 be the start of the national system. In effect, they
10 would be treated differently than a new site that does
11 not yet exist. That's the thinking that we've had all
12 along, but you obviously are raising an important
13 question here.

14 DR. MURRAY: So perhaps we need simply a
15 clause that would say additions of new sites other than
16 those that pass through your filter to the national
17 system. I think we then capture Mike's intent, do we
18 not?

19 MR. NUSSMAN: Yes you do.

20 DR. MURRAY: So we need some wording that
21 looks something like that. We need to basically say
22 that, you need a clause that would be an insert there.

1 I don't have the words at the moment. But additions
2 of new MPA sites other than those that currently exist
3 to the national system, and we can probably go from
4 there and fix that.

5 DR. BROMLEY: Okay. I have Dave and then I
6 have Bonnie.

7 MR. BENTON: Thank you, Mr. Chairman. Mr.
8 Chairman, listening to this discussion, it struck me
9 that maybe by parking this where it's parked is really
10 the problem. And what struck me is that perhaps this
11 is really one of the guiding principles that should
12 just be up in the very front.

13 I'll float this out and see what kind of body
14 action there is around here before I make it a motion,
15 okay? The way I would do it is I would change the
16 language to read: Additions to the national system,
17 then continue on with the language that you have there,
18 and I'd put it as a new guiding principle at the very
19 beginning.

20 And that way -- with one other change. I'm
21 sorry, Mr. Chairman. Where it says the objectives of
22 the MPA. I would say of the MPA or the national

1 system, and then let it go.

2 And then it's a principle, and it's an
3 expectation, and you get around all the nuances of
4 whether they're in, they're out, all that other stuff.

5 MS. WILLIAMS: I would second that.

6 DR. BROMLEY: Thank you. Mike Nussman.

7 MR. NUSSMAN: So tell me, what page? Give me
8 a page where you're -- general principles.

9 MR. BENTON: Mr. Chairman, if you go to page
10 9. And you go to the section that's entitled General
11 Principles. Are you there? And I would just add this
12 language, as I just proposed it as a new guiding
13 principle. Choose your number. It could be number 7,
14 it could be number -- I don't care where it goes.

15 MR. NUSSMAN: Mr. Chairman, that placement
16 would also satisfy me.

17 DR. BROMLEY: Rod, you were kind of part of
18 this.

19 DR. FUJITA: Yeah. Dave's right. It's the
20 placement that's the problem.

21 DR. BROMLEY: So now let's make it number 7.
22 Is that okay?

1 MR. BENTON: I'll make a motion, Mr. Chairman.

2 DR. BROMLEY: Yeah. You do.

3 MR. BENTON: Mr. Chairman, could I have the
4 language back up on the screen?

5 MS. WENZEL: Yeah. Just a second.

6 DR. BROMLEY: Is that a substitute motion?

7 MR. BENTON: Yeah. I'll make this as a
8 substitute motion as soon as the language comes up to
9 where I can see it. Okay. Mr. Chairman, I would move
10 that we include as new number 7 on page 9 under General
11 Principles, the language:

12 Additions to the national system -- with the language
13 that's there. I can't read it all from here. I'm
14 sorry, Mr. Chairman.

15 DR. BROMLEY: Should be contingent upon a
16 reasonable expectation of funding to accomplish the
17 goals and objectives of the MPA or the national system.

18 MR. BENTON: There we go. Thank you, Mr.
19 Chairman.

20 DR. BROMLEY: Including the enforcement,
21 evaluation, monitoring and adaptive management.

22 MR. BENTON: That would be my motion, Mr.

1 Chairman.

2 MR. LAPOINTE: Second.

3 MR. URAVITCH: I just don't see how that
4 clarifies the distinction between existing and new.
5 Because now it just says MPAs going into the system.
6 Somewhere you need that concept that essentially
7 preexisting sites by date X go through a slightly
8 modified process.

9 DR. BROMLEY: If you add a second sentence.

10 MR. BENTON: Mr. Chairman, I got a second on
11 this, correct?

12 DR. BROMLEY: Yes.

13 MR. BENTON: Okay. Mr. Chairman, I don't
14 think that you need to necessarily do that if the issue
15 is you have existing sites or existing potential
16 candidate sites, and if they have funding, then I would
17 say with the terms "reasonable expectation of funding,"
18 that's been met. It's the issue of those that don't,
19 including existing sites that do not, that become an
20 issue, okay?

21 That would be my interpretation of that
22 language.

1 DR. BROMLEY: Okay. Where are we? I have
2 Dave, I have Bonnie, I have Mike, I have George and
3 Eric.

4 DR. McCAY: Joe, on page 11, the second
5 paragraph, does that adequately deal with it where we
6 talk about the MMAs with identifiable deficiencies of
7 that whole section? There we seem to have set up the
8 process and we more explicitly talk about the fact that
9 we have existing sites that are currently categorized
10 as MMAs. I'm just wondering if this problem -- if it's
11 already handled in that section.

12 It may be clarified if perhaps if on line 25
13 where we have now in the case of both existing and new
14 sites nomination will require, we say something like in
15 the case of both existing MMA sites that meet criteria
16 for MPAs and new sites, we might be able to use
17 language like that.

18 But I don't know, Joe, if you've looked at
19 that section and thought about it light of this very
20 real problem.

21 MR. URAVITCH: I haven't. But what I'm
22 thinking for example, is Michigan's underwater

1 preserves program, which has a very limited funding,
2 zero funding. So, I mean, are they off the table? Or
3 are we going to wait for the state legislature to
4 appropriate money? And I think you'll find that around
5 the country.

6 DR. BROMLEY: Okay. I have Mike then George.

7 DR. CRUICKSHANK: Thank you. I think MPAs
8 which are called MPAs right now in the publications and
9 everything else that don't meet that criteria, what
10 happens to them? What are you going to do with them?

11 MR. URAVITCH: Well, people -- I mean, that's
12 a terminology question. We're not going to change what
13 people call things. I mean, they might over time if we
14 set some kind of national standards and things change
15 over time. But, you know, people can call people
16 things in MPA because they want to call it MPA. We
17 have no authority to change that.

18 DR. BROMLEY: Okay. I have George and I have
19 Eric and I have Kay.

20 MR. LAPOINTE: I think this is a great
21 addition, and here is why. We are making
22 recommendations to the two secretaries, and one of the

1 recommendations was that moving forward and doing good
2 work in the marine environment takes new investment.
3 That's consistent with the Ocean Policy Commission
4 Report, and we should state that. The OMB may tell us
5 to suck eggs, but that doesn't mean we shouldn't make
6 the recommendation.

7 And if in Michigan they have a site with zero
8 funding and they're doing it and that's sufficient
9 funding for the work they're doing, it fits this
10 criteria. But if there's other sites for which we have
11 insufficient funding, we should be able to say you need
12 enough to do the job. And so I think this is a great
13 addition to our principles.

14 DR. BROMLEY: Okay. I have two more and then
15 we're going to seek resolution here. Eric.

16 MR. GILMAN: I also want to express support
17 for the current version of the text, and the basis is
18 that the intent is that it would apply to both new and
19 proposed new sites, given the paragraph that Bonnie
20 identified on page 11 for existing sites in the marine
21 managed area list that don't have sufficient funding to
22 meet their goals, that they could be still adopted into

1 the system contingent upon meeting some sort of
2 schedule for meeting their deficiencies and that new
3 sites to the system would have to have sufficient
4 funding to show that they are able to meet their
5 scopes.

6 DR. BROMLEY: Okay. Kay?

7 MS. WILLIAMS: I support what Eric said. I do
8 not understand why we would want an MPA in our national
9 system that meets the criteria but doesn't have the
10 proper funding. All this does is give us -- it
11 gives us a reason to go to the Hill and say this is
12 another reason this program needs funding. It doesn't
13 have adequate funding, not even for the ones that are
14 existing today. They meet the criteria. They're
15 important to us. Let's fund them.

16 DR. BROMLEY: Good. Okay. Let me remind us
17 where we started here. We started with Mike Nussman
18 making -- attempting to address a deal breaker, and I'd
19 like to ask Mike how he now feels about it, and if he
20 feels okay about it, then I'd like to have the group --
21 Mike?

22 MR. NUSSMAN: Mr. Chairman, I feel very good.

1 I feel perfect.

2 DR. BROMLEY: You feel all right? All right.

3 And how do others feel? Dolly?

4 DR. GARZA: So, just on a point of
5 clarification, does that include the new language in
6 there as well as what Bonnie had suggested for page 11?

7 DR. BROMLEY: It depends on how strongly
8 Bonnie feels about it.

9 DR. McCAY: I don't feel very strongly. I
10 think page 11 pretty much satisfies the problem as it
11 is. But I really was looking for some input from staff
12 about these other ones dealing with the --

13 DR. BROMLEY: Okay.

14 DR. McCAY: I didn't really make a motion
15 there.

16 DR. BROMLEY: Okay. Are we prepared to vote
17 on this?

18 MR. PETERSON: Question, Mr. Chairman.

19 DR. BROMLEY: The question has been called
20 for. We have addressed a major issue. I believe many
21 people are happy with it. All in favor of the changes
22 that you see on the screen say aye.

1 (Chorus of ayes.)

2 DR. BROMLEY: Opposed?

3 (No response.)

4 DR. BROMLEY: Thank you. Mike, do you want --

5 MR. NUSSMAN: I'll go to the next one, Mr.
6 Chairman. And this hopefully -- well, I'm not sure
7 what it requires. But it has to do with the issue of
8 harm. And I'm not sure -- I didn't raise this issue,
9 but I did think about it when someone else raised it,
10 and so I'll speak to it, at least from my perspective.

11 The Executive Order, as I recall, and I don't
12 have it right in front of me --

13 DR. BROMLEY: I do.

14 MR. NUSSMAN: But it refers to not causing
15 harm.

16 DR. BROMLEY: Section 5 of the Executive
17 Order.

18 MR. NUSSMAN: Could you read that for me, Mr.
19 Chairman?

20 DR. BROMLEY: Yeah. I'll read all of Section
21 5. It is Section 5 of the Executive Order, and it
22 says:

1 Agency Responsibilities. Each federal agency whose
2 actions affect the natural or cultural
3 resources that are protected by an MPA shall
4 identify such actions. To the extent
5 permitted by law and to the maximum extent
6 practicable, each federal agency in taking
7 such actions shall avoid harm to the natural
8 and cultural resources that are protected by
9 an MPA. In implementing this section, each
10 federal agency shall refer to the MPAs
11 identified under Section 4 subparagraph (d) of
12 this order.

13 MR. NUSSMAN: Very good. That provision, as I
14 recall, and I'm doing this from recollection and from a
15 conversation I had with Joe last evening, resulted in
16 the Department of Commerce attorneys being somewhat
17 nervous and others being somewhat nervous in the
18 creation of marine managed areas. That's my
19 recollection, whether it's correct or not.

20 So let me first ask Joe to speak to that
21 issue. My concern is that as we go forward with our
22 recommendation, it in no way be used to send a message

1 that at least this individual won't -- doesn't want to
2 go catch a bluefish in a marine managed area if in fact
3 it's currently allowed there or would be allowed there.

4 Joe, would you help me with that?

5 MR. URAVITCH: I'd be happy to do that. The
6 nervousness upon the part of the counsel was basically
7 related to since this is an Executive Order, how do you
8 promulgate regulations when that's supposed to be
9 regulations flowing from a law? So what we've heard so
10 far, not in official opinions, is it's quasi-
11 regulatory, whatever that means.

12 We have agreed to follow a regulatory type
13 process in terms of defining this, going through a
14 Federal Register notice, et cetera. But still, it's
15 guidelines essentially to federal agencies on how they
16 will behave. In terms of what does this mean, this is
17 really -- we have an interagency working group trying
18 to define this across the federal agencies, which will
19 be part of what goes into the Federal Register, but its
20 intent was never to say you can't harm the hair on a
21 dogfish because it's an MPA.

22 You have to -- as far as we're concerned, at

1 least at this point, an MPA is established to undertake
2 a specific set of goals and objectives, and those are
3 defined by the specific MPA, and that's what agencies
4 would have to ensure that they follow

5 MR. NUSSMAN: Joe, I appreciate that
6 definition and I would feel even more appreciative had
7 this interagency task force that's been set about to
8 define or determine what this means after two years
9 have actually answered that question. So that is where
10 my nervousness springs from, and I'd like some
11 clarification. But with that, I'll leave it and hear
12 from others. Thanks.

13 DR. BROMLEY: Thank you, Mike. David?

14 MR. BENTON: Mr. Chairman, seeing as how I was
15 one of the people that raised this initially, and I
16 recall the discussions that Mike is referring to, and I
17 have many of the same concerns, but I also recognize
18 that we have not got the time or the ability at this
19 meeting to deal with this harm issue other than to
20 recognize we have not dealt with it, that we are
21 recommending a national system with objectives and
22 goals to deal with threats and problems, but we haven't

1 defined exactly one of the key terms that's used in the
2 Executive Order.

3 I think this may be one of those items that
4 goes into your premier list of acknowledgement that it
5 has not, and that there are ramifications and
6 implications that have not been explored or discussed.

7 I don't know if that satisfies Mike's concern. I'm
8 equally uncomfortable about the issue of harm, but I'm
9 also cognizant of where we're at.

10 MR. NUSSMAN: Mr. Chairman, as long as it was
11 addressed in a way that Joe has explained it to me and
12 said it hadn't been addressed or we had not spoken to
13 it, the agencies haven't spoken to it, and thus it is
14 not spoken to, I would be comfortable with that.

15 DR. BROMLEY: All right. Would you work with
16 Joe and Dave Benson to get us a sentence or two to that
17 effect that you could live with as an unresolved issue?
18 Would that be acceptable to everybody if we hear from
19 this group on that? David?

20 MR. BENTON: Mr. Chairman, it may be something
21 that you put in that ending, concluding section.

22 DR. BROMLEY: Yes, that's right. That was my

1 idea that in the conclusion section of this document we
2 are going to make a list of these things. I don't want
3 to say that -- I'm going to say it, but I don't want to
4 say that the approval of this thing is contingent of
5 it, but these are --we have support from our group, but
6 these are issues that we have not addressed that we
7 feel are important and that they must be addressed in
8 the future.

9 And we're not accepting it under protest.
10 We're just accepting it but understanding that this
11 stuff has not yet been addressed.

12 Tony and Barbara.

13 DR. CHATWIN: I can support that course of
14 action. I would say that in that section, we should
15 look a little bit broader than just the issue of harm.

16 I personally don't --

17 DR. BROMLEY: Of what?

18 DR. CHATWIN: The issue of harm.

19 DR. BROMLEY: Harm? Oh yeah. You'll have a
20 list.

21 DR. CHATWIN: I personally don't think that
22 it's in the charge of this committee to define harm. I

1 think it's more akin with the legal review that we have
2 recommended going forward, because it has legal
3 implications. But I also would say if you have any
4 section where you're talking about unaddressed issues
5 in the Executive Order, there are a number of other
6 issues here that we have not addressed that I would
7 like to be included.

8 DR. BROMLEY: Wonderful. Wonderful. We're
9 making the list. And let me ask you, Tony, it would
10 not preclude you from supporting the document if in
11 this list of unresolved issues we simply mentioned harm
12 and then went forward only to learn that it wasn't
13 within our writ to address it or something else. Is
14 that right? Is that okay?

15 DR. CHATWIN: That is correct.

16 DR. BROMLEY: Yeah.

17 DR. CHATWIN: And I have a question, Mr.
18 Chairman.

19 DR. BROMLEY: Okay. Sure.

20 DR. CHATWIN: When are we going to get to the
21 -- I'm happy to do that after --

22 DR. BROMLEY: We're trying to work our way

1 through it. I'm open to nominations, and I gave Mike
2 sort of the floor here because it's very clear that he
3 has strong feelings about some things. But that's what
4 we're doing. We're building a list, I think, of these
5 unresolved issues.

6 Who's helping us with her list now? Poor
7 Lauren. She's doing five things at once. Tony?

8 DR. CHATWIN: Well, I'd just take the
9 opportunity to add an issue to that section.

10 DR. BROMLEY: To this unresolved -- wonderful.

11 DR. CHATWIN: Unresolved, which is, we have
12 not discussed -- but it's central here in a number of
13 items. We have not discussed prohibition of
14 consumptive uses, although it's clearly stated in the
15 document as one of the things that in the section that
16 pertains to this factor, we have not discussed that.

17 And I would just like to, you know, I think it
18 actually could go hand-in-hand with the harm
19 discussion. So I would just like to put a placeholder
20 in there or an acknowledgement that we have not
21 addressed that issue.

22 DR. BROMLEY: Okay.

1 DR. CHATWIN: And for the benefit of people
2 around the table, I'm referring to Section 4, item 2,
3 and Section 4, item 3. We also have not addressed
4 fully the section in item 4, which is the assessment of
5 threats and gaps and that sort of thing.

6 DR. BROMLEY: I'd like a list.

7 MR. NUSSMAN: Mr. Chairman, just listening to
8 the statement that we've not discussed prohibitions on
9 consumptive use, is that --

10 DR. CHATWIN: That's the language in here.

11 MR. NUSSMAN: I'm not sure I agree with that.

12 I think we have discussed that at least to some extent
13 regarding the whole, at least I've felt I have
14 discussed it from talking about multiple uses of these
15 areas and the different language we've had back and
16 forth today. I think we have discussed it. So I'm not
17 sure it would be accurate to say we've not discussed
18 it. Thank you.

19 DR. BROMLEY: Wally?

20 DR. PEREYRA: Mr. Chairman, I think the one
21 aspect of this we probably have not discussed, and that
22 is the whole concept of the minimum area to where

1 consumptive uses would be prohibited. I think that's
2 part of this particular section.

3 DR. BROMLEY: Okay. Tony, is that a friendly
4 kind of addition to your concern?

5 DR. CHATWIN: Just kind of a brief --

6 DR. BROMLEY: Let's just sort of do our list.
7 Let's not argue them. Let's just see what our list
8 looks like. I'm sorry, Tony. I didn't mean to cut you
9 off. Kind of a yes or no. Would you be comfortable
10 with the slight elaborators offered by Wally?

11 DR. CHATWIN: Yeah. The reason why I didn't
12 go to the detail is because the issue of prohibition of
13 consumptive uses is mentioned in two items. And rather
14 than go into the details of what aspects of that, I was
15 just saying that's something that we haven't -- and I'm
16 happy to find language that more accurately reflects we
17 haven't come to a resolution on that. We haven't --
18 have recommendations made on that.

19 DR. BROMLEY: That's great.

20 DR. CHATWIN: That's fine.

21 DR. BROMLEY: Okay.

22 MR. PETERSON: Mr. Chairman?

1 DR. BROMLEY: I had Tundi and then Max and
2 then Mike.

3 MR. PETERSON: Okay.

4 MS. STEVENSON: What happened to me?

5 DR. BROMLEY: Pardon me?

6 MS. STEVENSON: This is the third time you
7 skipped over me that I was on a list and you
8 disappeared me, so. At some point I would like to
9 speak.

10 DR. BROMLEY: Yeah, please. Go right ahead.
11 I'm sorry.

12 MS. STEVENSON: I have one for the list, and I
13 wanted to -- I'm very uncomfortable with what Tony
14 said. I don't have a problem including that we have
15 not discussed any particular area or minimum size of
16 area or anything like that. That's in the Executive
17 Order and we haven't discussed it, fine. That goes on
18 the list.

19 But to say that this document does not
20 contemplate prohibiting any kind of consumptive use --
21 you haven't read the document. I mean, to me the
22 potential that that is what we're saying might happen

1 is clear throughout the document. So I'm very
2 concerned in saying that we haven't discussed the
3 prohibition of consumptive use, and at the appropriate
4 time, I have something to add to the list.

5 DR. BROMLEY: Go ahead, Barbara. Add it now.

6 MS. STEVENSON: Add it now?

7 DR. BROMLEY: Yeah. Let's just get it out.

8 MS. STEVENSON: Okay. This goes back to the
9 issue that we were talking about a little while ago,
10 which was who approves. And I guess I didn't read that
11 section clearly enough when I read the document, but it
12 is really strange that you go through and we say, you
13 know, the controlling entity will do this, that and the
14 other, and we never say that that will be approved.

15 So I suggest we add, and I have some sample
16 language, but I'm not wedded to it, to the conclusion
17 section of the list of things that we haven't done or
18 the list of things that someone else has to do, which
19 is the appropriate entity to approve inclusion in the
20 national system must be clearly designated.

21 DR. BROMLEY: Others have expressed a similar
22 concern. Is that a shared sense that we add this to

1 the list? Okay. All right. Thanks, Barbara.

2 MS. STEVENSON: Yep.

3 DR. BROMLEY: Who else now? Sorry about the
4 list. I have Max and Tundi.

5 MR. PETERSON: I'm concerned about where we're
6 going here, because the Executive Order assigns to the
7 Department of Commerce and Interior in consultation
8 with the Department of Defense, the Department of
9 State, Department of Transportation, EPA and all these
10 people a responsibility for these eight things that
11 we're talking about now. And I don't think it's
12 beholden upon us to try to address those eight things,
13 because somebody else has been told to do that. We
14 might look at what they do and then decide whether we
15 want to express an opinion on it.

16 MR. RADONSKI: That's not to say that we
17 shouldn't advise them, too. We're involved in those
18 eight things.

19 MR. PETERSON: It doesn't say, if you look at
20 what we're required to do, it gives us a specific
21 mandate that has to do with the establishment of the
22 national system. It doesn't say we're supposed to go

1 back and take these eight items that are here and that
2 we're supposed to say, well, we haven't discussed in
3 detail those eight items, so we've got to list them
4 all.

5 I think that would be a -- the committee
6 doesn't --nothing prevents the committee from doing
7 that at some time in the future, but I don't see
8 anything to be served by just saying we didn't deal
9 with these eight items.

10 So, harm is definitely one that's been
11 discussed several times since we started here. I think
12 we need to leave that, and I don't have any problem
13 with the appropriate entity approve. We've discussed
14 that. But I think going through this and picking out
15 some of these eight items is a loser from a process
16 point of view.

17 DR. BROMLEY: Thank you, Max. I would like to
18 say that we've sort of shifted over into a wish list.
19 We started this process I believe as addressing the
20 dealbreakers. That is, what must be discussed and what
21 must be put on this list that would, if it shows up on
22 that list, would bring us more votes. And now we're

1 sort of I think off in a little bit of a wish list sort
2 of thing. And, oh, well, you know, we didn't address
3 this, and we haven't yet addressed that.

4 I'd like to get back sometime after four
5 o'clock now, to dealbreakers. I want to know what are
6 the things that will bring votes to the table,
7 acceptance of our report? Tundi?

8 DR. AGARDY: Well, this isn't a dealbreaker,
9 but having been involved with the drafting of the
10 document that led to the Executive Order, I can say
11 that the minimum area number 3 clause in the Executive
12 Order is a historic artifact that arose at a time when
13 people were talking about the 20 percent rule.

14 I don't believe that we should go there. And
15 I agree with Max that we are not obligated to look at
16 all of these things. So what I do think we have to
17 revisit in the next iteration of the FAC is a serious
18 and learned discussion about financing and about
19 incentives. Because we have to articulate that much
20 more. And that's probably going to need a subcommittee
21 or something.

22 DR. BROMLEY: And I think everybody agrees.

1 DR. AGARDY: So I would like to put that on
2 the list, please.

3 DR. BROMLEY: Thank you. That is exactly the
4 deal. You haven't put it that way, Tundi, but you
5 could have put it to us as a dealbreaker, but you
6 didn't, right?

7 DR. AGARDY: Well, you know where I'm --

8 DR. BROMLEY: But, you know, I mean, some
9 people present it to us as dealbreakers and some people
10 present it as wonderful ideas.

11 (Laughter.)

12 DR. BROMLEY: Those are not mutually exclusive
13 sets. But that's what we want. That's good. Okay.
14 David? Wait. Mike Cruickshank.

15 DR. CRUICKSHANK: Thank you, Mr. Chairman.
16 I'd like to address the mineral resource issues.

17 DR. BROMLEY: That's right.

18 DR. CRUICKSHANK: And one of the issues is
19 that energy and minerals are part of natural resources
20 of this country and the environment. So far, we have
21 not excluded energy and mineral areas from any kind of
22 action as MPAs. Now almost probably half, at least 50

1 percent of the EEZ is at present under lease or under
2 consideration for lease for energy and minerals. And
3 this is true also of the islands and possessions of the
4 country. And we either have to specifically state in
5 the definition that we are excluding these things, or
6 we must then look at them.

7 We did request from Interior and Commerce very
8 early in this progress some response as to whether --
9 what they thought about it. And we haven't had a
10 response. And so I would be happy to put this on till
11 next time if we can do that with the proper wording.
12 Or if we don't, I have a potential -- I have some
13 wording that might do it temporarily anyway.

14 DR. BROMLEY: I would accept your first
15 gracious offer if I could put it on the list of stuff
16 that we have not addressed.

17 DR. CRUICKSHANK: Yes.

18 DR. BROMLEY: And I would be very happy to
19 have language from you about how that might be worded
20 in our document.

21 DR. CRUICKSHANK: Okay.

22 DR. BROMLEY: This was really clear to us as

1 an Executive Committee when your intervention came in,
2 it was in a sense quite a prescriptive statement, and
3 that introduced a level of commitment to mineral
4 resources that we had not really discussed. So this is
5 a classic issue that we have not paid attention to. We
6 must in the future. And if you could give us some
7 language that would justify why this belongs on that
8 list of stuff to include on that list, I'd be very
9 happy.

10 DR. CRUICKSHANK: Okay. Now does that go
11 beyond the material I already sent to the committee?

12 DR. BROMLEY: That replaces the material you
13 sent to the committee because the material you sent to
14 the committee said you can't, you know, you can't --
15 what was it? Something like MPAs can't be precluded
16 from extracting oil and gas or something as I recall,
17 which I found a little bit worthy of debate.

18 DR. CRUICKSHANK: I didn't hear that response,
19 actually.

20 DR. BROMLEY: Well, it was something like
21 that. And it may be where we end up, but we haven't
22 really talked about it. Do you see what I'm saying?

1 DR. CRUICKSHANK: Yes. Yes, I understand.

2 DR. BROMLEY: Please give us good reasons why
3 it is important for us to go forward with the next
4 time.

5 DR. CRUICKSHANK: Okay.

6 DR. BROMLEY: Is that okay?

7 DR. CRUICKSHANK: That's okay. I'll do that.
8 What -- do you have a timeline on that?

9 DR. BROMLEY: Well, you've got about ten
10 minutes, Mike. Okay. I have Mel and then David.

11 MR. MOON: Mr. Chairman, at the meeting that
12 we had in Washington, D.C. we had an item on the list
13 that dealt with a question of how Indian tribes would
14 be participants in Indian processes.

15 And I realize that we've done a lot of good
16 work in terms of including the name of tribes in
17 reference to state and federal participation in
18 different aspects of the plan, but we haven't described
19 what system that we would utilize as tribes to ensure
20 that they had received the protection and support so
21 that their treaty rights were not diminished or
22 abrogated under any process that takes place here.

1 So under the harm section, I would propose
2 that we move to, at the next round, develop a process
3 to support and acknowledge treaty rights so that they
4 will not be diminished or abrogated or affected in the
5 MPA development process.

6 DR. BROMLEY: Wonderful. I'd like to ask you
7 to do it as a separate thing from harm, because the
8 harm speaks to federal agencies doing harm.

9 MR. MOON: Okay.

10 DR. BROMLEY: And this is bigger and more
11 important than that, Mel.

12 MR. MOON: Put it in a separate piece.

13 DR. BROMLEY: Could you give us a little bit
14 of language to that effect, please?

15 MR. MOON: I can do that.

16 DR. BROMLEY: And you have eight minutes.

17 MR. MOON: I can do that.

18 DR. BROMLEY: David?

19 MR. BENTON: Mr. Chairman, I conferred with
20 Mr. Nussman. I did not have a chance to confer with
21 Joe. I have language on the Section 5 harm issue that
22 you could put in the conclusion section.

1 DR. BROMLEY: In the conclusion section?

2 MR. BENTON: I can read it here and we could
3 try and deal with it, or I can just give it to you.

4 DR. BROMLEY: I'd like to hear it, but I don't
5 want to deal with it. Let's hear it.

6 (Laughter.)

7 MR. BENTON: It's pretty straightforward, Mr.
8 Chairman. It would be under the conclusion section.
9 There would just be a paragraph that reads:

10 Section 5 of Executive Order 13158 sets out agency
11 responsibilities including requirements that
12 federal agencies shall avoid harm to natural
13 and cultural resources that are protected by
14 an MPA. The committee has not addressed the
15 provisions of Section 5 and is making no
16 recommendation on this matter. There is
17 concern that this is a fundamental provision
18 that requires future attention.

19 End of sentence, or end of paragraph.

20 DR. BROMLEY: That's not bad, David. I'll be
21 darned.

22 MR. BENTON: So would I.

1 DR. BROMLEY: I think that's not bad. Pardon
2 me?

3 MS. WENZEL: Just an editorial comment. I
4 think that language is probably going to be relevant,
5 like this hasn't been discussed and it's an important
6 issue to several things that people raised. So I was
7 just going to say that it might be worth having people
8 feed language and then we can try to craft it so that
9 we have that general umbrella language up front and
10 then some more specific language --

11 DR. BROMLEY: That's a preamble, David.
12 That's nice language for a preamble. That's what we
13 were kind of looking for, and then we've got these
14 things under it.

15 MR. BENTON: The only thing I would say to
16 that, Mr. Chairman, if I could respond is that you
17 correctly I believe sort of admonished us not to come
18 up with a wish list, and I would be concerned, and I
19 will leave it to your editorial discretion, you and
20 Lauren and others, how you deal with this, but I'd be
21 very concerned if you lost the notion that Section 5 in
22 particular is a very fundamental provision and it has

1 wide-ranging implications, more so than some of the
2 items that are under Sections 4 or 3.

3 So, I will leave that with you, and I can give
4 you this language. If you don't want to take a vote on
5 it, that's fine with me. I don't care.

6 DR. BROMLEY: Yeah. No, I like the sense
7 there, David, both as the preamble of it and the
8 specifics. And rest assured, all of these things -- I
9 mean, you wouldn't object I hope to us saying that all
10 of these issues are important. Is that okay?

11 MR. BENTON: It's a fundamental issue for
12 Nussman, it was a fundamental issue for myself.

13 DR. BROMLEY: That's fair. But I would
14 imagine other deals on here -- Mel might believe that
15 what he proposed is a fundamental issue as well. So
16 all I'm asking is permission to label all of these as
17 fundamental issues. Do you mind? Okay.

18 MR. BENTON: It's okay with me.

19 DR. BROMLEY: And my argument is, look, if
20 they weren't fundamental, they wouldn't be on this
21 list. Where are we? Wally, was your hand up?

22 DR. PEREYRA: Mr. Chairman, I had an ancillary

1 issue, but you're dealing with just fundamentals this
2 time?

3 DR. BROMLEY: I would hope so.

4 DR. PEREYRA: Okay. Well, when you get around
5 to it, I had an issue that I wanted to present.

6 DR. BROMLEY: Okay. Where are we? Are there
7 other dealbreakers hanging over us? I'm going to call
8 them dealbreakers. This is not a wish list. I'm
9 calling these dealbreakers, all right? Harm,
10 prohibition of consumptive uses, the appropriate entity
11 to approve designation, financing and incentives,
12 energy and minerals, develop a process to acknowledge
13 treaty rights.

14 In other words, it is my hope that the
15 inclusion of these and a slight elaboration goes a long
16 way towards allowing everybody around this table to
17 say, I can live with this document. That's what I'm
18 working on here.

19 Is your hand up, David?

20 MR. BENTON: Yeah, Mr. Chairman. Just -- and
21 I'm not trying to wordsmith and I'm going to leave this
22 to you -- but harm, the way it's worded, I think the

1 way you need to do that in Section 5 including a
2 definition of avoid harm.

3 DR. BROMLEY: Thanks. That's right, Lauren.
4 Section 5 of the Executive Order.

5 MR. BENTON: Including a definition of avoid
6 harm.

7 DR. BROMLEY: Yeah. That whole package of
8 discussion there. Barbara?

9 MS. STEVENSON: I thought there was extensive
10 discussion that we didn't need to include the
11 prohibition of consumptive uses. And Tundi said that
12 it was an artifact and that we didn't need to address
13 all of the different issues that were in the document,
14 which is where I thought we were. So I'm surprised to
15 see it still on the list.

16 DR. BROMLEY: Okay. Tundi, what do you think?

17 DR. AGARDY: I was only referring to the
18 minimum size. And just so you know, historically, that
19 was originally cast as a 20 percent no take, which we
20 were not happy with, most of us. And, Wally, just for
21 the record, you should know that I published a paper on
22 this which got me into a lot of conflict with my

1 conservation colleagues.

2 DR. BROMLEY: I've read it.

3 DR. AGARDY: Anyway. So, I was only speaking
4 to the minimum area question, which I think is
5 something that most people think should probably not
6 pertain as a general rule to MPA planning.

7 DR. BROMLEY: Okay. Barbara?

8 MS. STEVENSON: So which part haven't we
9 discussed? I mean, this is a general question. I'll
10 ask -- it was Tony's list.

11 DR. CHATWIN: If I might say something here,
12 Mr. Chairman?

13 DR. BROMLEY: Yeah, yeah.

14 DR. CHATWIN: I didn't bring up the minimum
15 area. That was brought up by Wally. But I'm just --
16 here is my concern. This is not a dealbreaker. My
17 concern is that for the next FAC, they'll look at this
18 list and say, hey, these are the issues that we're
19 going to work on, okay?

20 And there are issues that we haven't worked
21 on, which in my -- I mean, when I made the statement, I
22 made the statement that in the discussion of harm, you

1 know, this is one of the things that may be sort of
2 part of that discussion.

3 But my concern is that I felt that there's a
4 need to put a placeholder there to ensure that that is
5 in the range of subjects that we might look at in the
6 next iteration of this FAC. And if that's not the
7 case, if we're going to go back to this document, I'm
8 happy to say, hey, we'll go back to this and we can
9 then decide on what to discuss.

10 DR. BROMLEY: Okay. Barbara?

11 MS. STEVENSON: So does that mean it's off
12 this list? That list.

13 DR. BROMLEY: I think we should leave it off.

14 MS. STEVENSON: Not the -- it's obviously in
15 the Executive Order.

16 MR. GILMAN: Just to speak to that, I mean, in
17 the Executive Order, it --

18 DR. BROMLEY: No, I'm sorry, Eric. I just
19 meant I have you on the list. I think they're still
20 going at it. Excuse me.

21 MS. STEVENSON: I just want to know. Either -
22 - I need to know what part we haven't discussed. And

1 Tony said it wasn't the minimum area. So what other
2 part haven't we discussed and how have I misread the
3 document? Or, if we're going back to this, then it
4 should not be on that list. As long as it's not on
5 that list, then I don't need to know what it is.

6 DR. CHATWIN: Maybe guidance from the MPA
7 Center at this point and what their expectation is that
8 will guide the work of the committee, the next
9 iteration of the committee, would be helpful. Because
10 if it is the Executive Order, I'm happy to have it
11 withdrawn.

12 If we're going to be shaped, our focus -- I
13 say our, but if the next iteration of the FAC is going
14 to focus on this section of our recommendations to seek
15 guidance on what to talk about, then I want it in.

16 MR. URAVITCH: Okay. I mean, obviously this
17 is going to be a discussion we're going to have
18 tomorrow. And the charge that's finally going to come
19 to the new committee will have to come from the
20 departments.

21 So, you know, we're obviously going to take
22 these under advisement, but we can't guarantee. But

1 everything we're doing comes under the rubric of the
2 Executive Order. So, you know, these are part of
3 those. I think they'd be raised. If they're included
4 in the document, they become part of the formal
5 recommendations of this committee that go to the two
6 departments. I can't guarantee what our leadership is
7 going to say are the specific charges to the next
8 committee, so.

9 MS. WENZEL: But just to add to that, it
10 doesn't mean that the next charge would necessarily be
11 limited to this list at all.

12 MR. URAVITCH: Correct.

13 DR. BROMLEY: That's right. Okay. I have
14 Eric, Zales. Eric Gilman.

15 MR. GILMAN: I guess I'm a little bit confused
16 about the list that we're adding at the end of our
17 document in that if you look at the Executive Order
18 under the section about the national system, there's a
19 large number of items that our committee hasn't dealt
20 with. And I thought that this prioritizing which ones
21 the committee should deal with next, it was our next
22 order of affairs. And this list overlaps quite a bit

1 with what's in the Executive Order but isn't
2 comprehensive. And so that maybe these things could be
3 relegated to what we're going to do tomorrow. But this
4 speaks specifically to the item on prohibition of
5 consumptive uses.

6 The way it's worded in the Executive Order is
7 -- doesn't specifically speak to that. It says minimum
8 area where consumptive uses would be prohibited. It
9 presumes that there would be areas where consumptive
10 uses are prohibited in some MPAs. It's more an issue
11 of what sort of ecological criteria justify what
12 specific size needs to be zoned in the MPA.

13 DR. BROMLEY: Okay. Charlie, I'm going to put
14 you up in the queue. Then I go to Zales and Bonnie.
15 So, Charlie, clarifying or whatever? Please. Go
16 ahead.

17 DR. WAHLE: Okay. Thank you. Just briefly, I
18 wanted to clarify a little bit about these issues that
19 are all part of Section 4(a). These are in effect --
20 and Tundi is right, there's a lot of artifact in here -
21 - but these are the analytical steps that we
22 collectively will need to go through in order to

1 determine ultimately what makes an effective national
2 system and where the priorities are for improving
3 sites, adding sites, what have you. This is the real
4 meat of the problem here.

5 Clearly, we haven't gotten there yet, and we
6 didn't really think we would. The first piece was to
7 develop this conceptual approach. We I believe will be
8 looking for input on how to do some of these and even
9 some of the real content as well. But we've always
10 thought of this as basically step two. But it's
11 certainly, in my mind at least, these topics are
12 clearly on our agenda.

13 DR. BROMLEY: Thanks, Charlie. Okay. I have
14 Bob Zales, Bonnie and Tundi.

15 MR. ZALES: My concern, and I don't know if it
16 goes under unresolved issues. I would kind of like it
17 to I guess, or if it just goes under the future thing.

18 But it's my concern about as we get from the federal
19 jurisdiction into state and local jurisdictions and
20 what I would consider probably one of the most
21 important things is where you have issues with runoff,
22 you have issues like nutrients running down the

1 Mississippi River creating these large dead zones in
2 the Gulf of Mexico, things that need to be addressed
3 that are going to have to be probably -- they have to
4 be addressed in my mind, but in all reality probably
5 will never be because they involve development.

6 And it seems to be everybody out here is
7 afraid to say let's go look at a developer and figure
8 out how somebody that's paying millions of dollars for
9 a piece of property to make them do something if
10 they're going to build on that piece of property to
11 protect the resources. And I think those are critical
12 to many life stages of fish plus various habitats, and
13 it's an issue that needs to be addressed in my mind.

14 DR. BROMLEY: Good. Okay. Tundi?

15 DR. AGARDY: I think we need -- this is not to
16 do with the document itself, but I think as long as we
17 have the committee convened here, I think we have to
18 come to an understanding about whether in fact it is
19 our charge to go through all of these eight things that
20 are listed in the Executive Order, or whether it's our
21 charge to envision the national system and talk about
22 the best means for getting to that system.

1 And the reason I bring this up is because this
2 -- the Executive Order is about, academically speaking,
3 it's about, you know, six or seven years out of date
4 now. The things that went into the Executive Order
5 were state of the art ideas at the time. Many of them
6 are no longer state of the art ideas. Many of them are
7 very highly controversial.

8 I think that, you know, we were asked
9 specifically, we were charged specifically with
10 considering these questions. However, I think it would
11 be within our remit to be able to say some of the
12 things that are listed in the Executive Order are not
13 appropriate ways to assess whether a protected area
14 should be in the system, or --

15 In other words, I would hope that we're not
16 bound by this quite outdated document as to how we're
17 going to make recommendations to create a system.
18 Because if we are, we might as well set our clocks back
19 in our heads back to a time when all of this thinking
20 was relatively new, and many of these things were not
21 yet tried and tested.

22 So --

1 DR. BROMLEY: Would you mind if we just remain
2 silent on them? I mean, we are just here -- this list
3 is things that our members felt were important
4 dealbreakers, potential dealbreakers, awkward things.
5 That's what we're going to fix. I would prefer to
6 remain silent on those things about which I cannot
7 speak.

8 David?

9 MR. BENTON: Mr. Chairman, I'm ready to vote
10 on the document.

11 DR. BROMLEY: Well, I'm not going to just
12 accept that without a fight.

13 (Laughter.)

14 DR. BROMLEY: So, I have Wally and I have
15 Barbara. How impertinent of you, David.

16 (Laughter.)

17 DR. PEREYRA: He got my attention. Mr.
18 Chairman, yesterday during the excellent presentations
19 --

20 DR. BROMLEY: Is this your auxiliary point?

21 DR. PEREYRA: This is --

22 DR. BROMLEY: Ancillary?

1 DR. PEREYRA: Yes. This sort of an auxiliary
2 nature.

3 DR. BROMLEY: Yeah, yeah. Good.

4 DR. PEREYRA: Yesterday during the exit
5 presentations that were provided, particularly the
6 presentation on the situation in New England, not to
7 downplay the presentation in the Gulf, but this
8 ancillary issue was very pointedly brought to our
9 attention during the discussion.

10 That has to do with the redistribution of
11 effort when MPAs are established, and the unintended
12 consequences of that. And I've been thinking about it.

13 It's not something that we ever really brought up
14 within the document, and I think it could be helpful to
15 put it in. And I had some wording which is quite
16 general and I hope will be acceptable that could go in
17 on page 4. And if you would allow me, I would like to
18 just read.

19 DR. BROMLEY: I'd first, Wally, before we go
20 there, I'd like you tell us why it has not already been
21 captured on page 12, points 1 and 3. I'm open to new
22 language, but I want --

1 DR. PEREYRA: Page 12? Excuse me.

2 DR. BROMLEY: Yeah. Page 12. You're talking
3 about unintended consequences, which I suppose means
4 the impacts on an industry that is forced to modify its
5 fishing behavior. And I guess could you --

6 DR. PEREYRA: Well --

7 DR. BROMLEY: Yeah?

8 DR. PEREYRA: My --

9 DR. BROMLEY: That's kind of my hurdle.

10 DR. PEREYRA: My interest in this was raised
11 when I looked at item (e) on page 4, line 11. And
12 there it talks about -- we're talking about the
13 objectives and when they're accomplished, these are
14 some items that need to be taken into consideration.

15 And one of them here, (e), is to minimize to
16 the extent possible adverse social and economic impacts
17 on citizens and interest groups.

18 DR. BROMLEY: That's correct.

19 DR. PEREYRA: That's fine. That's good. But
20 also I think there is a need to minimize the extent
21 possible the adverse impacts to the marine environment
22 and its resources from the redistribution of effort and

1 uses.

2 DR. BROMLEY: I see.

3 DR. PEREYRA: I think that that's an important
4 concept that needs to be --

5 DR. BROMLEY: I didn't understand.

6 DR. PEREYRA: -- at least recognized --

7 DR. BROMLEY: Yeah, right.

8 DR. PEREYRA: -- based particularly on what I
9 saw.

10 DR. BROMLEY: The concentration of effort some
11 other place?

12 DR. PEREYRA: Yeah. Where these are right on
13 the borders, that could create some problems.

14 DR. BROMLEY: I see that. Okay. Do you have
15 some language?

16 DR. PEREYRA: I have specific language.

17 DR. BROMLEY: Let's hear it.

18 DR. PEREYRA: And it's very -- it's --

19 DR. BROMLEY: Where does it go?

20 DR. PEREYRA: It would be item (f) and it
21 would go at line 13 on page 4. And it would read as
22 follows:

1 Minimize to the extent possible adverse impacts to the
2 marine environment and its resources from the
3 redistribution of fishing effort and other
4 uses.

5 And the reason I put "other uses" in there is because
6 there may be MPAs set up for non-consumptive activities
7 such as snorkeling or something, and there may be a
8 reserve or something that wanted to be set aside and
9 all activities eliminated from the areas, and then
10 these folks that were going in there all of a sudden
11 they redistribute themselves somewhere else or along
12 the edge, just so that it's highlighted.

13 DR. BROMLEY: Yeah. Effort is a fishy word,
14 but I could also understand that there could be
15 redirection of other uses away from an MPA which are
16 not effort things but are other stuff. So, could you
17 let go of the word "effort" and -- fishing effort or
18 something. But, you see, there could be concentration
19 of recreation that's not fishing but divers.

20 MR. PETERSON: Activities is a better word.

21 DR. BROMLEY: Minimize to the extent possible
22 adverse impacts to the marine environment and its

1 resources. Is "resources" necessary?

2 DR. PEREYRA: Well, I was thinking marine
3 environment. In one case, I was thinking of the
4 scallop situation where --

5 DR. BROMLEY: Yeah, I know. Yeah.

6 DR. PEREYRA: -- where you've got more
7 dredging occurring as a result of it, and that's an
8 impact to the substrate, so.

9 DR. BROMLEY: All right. That's fine. And
10 its resources from the redistribution of activities --

11 MS. WENZEL: Fishing effort.

12 DR. BROMLEY: Redistribution -- is that word
13 all right? Redistribution? I see what you mean. It's
14 the redirection.

15 DR. PEREYRA: Right.

16 MR. PETERSON: Is that a motion?

17 DR. PEREYRA: That's a motion.

18 DR. BROMLEY: It could be.

19 MR. PETERSON: I'll second.

20 DR. BROMLEY: All right. So we have a motion
21 that's been seconded which seeks to minimize to the
22 extent possible adverse impacts to the marine

1 environment and its resources from the redistribution
2 of activities.

3 What about "displacement of?"

4 MS. WENZEL: There might be a concentration of
5 activities in an area that attracted recreational use,
6 for example.

7 MR. PETERSON: I think redistribution is
8 better.

9 DR. BROMLEY: Redistribution is okay?

10 DR. PEREYRA: Yeah.

11 DR. BROMLEY: Bob Zales?

12 MR. ZALES: I was going to say redistribution
13 in my mind is okay because that's what's happening. If
14 you've had these activities somewhere and all of a
15 sudden they're moved out, you redistributed whatever
16 was going on in there.

17 DR. BROMLEY: Okay. Spatial and temporal
18 redistribution?

19 DR. PEREYRA: That's fine.

20 DR. BROMLEY: Spatial I think and temporal is
21 a nice -- is that okay, Wally?

22 DR. PEREYRA: Excellent. I like that.

1 DR. BROMLEY: Spatial and temporal
2 redistribution of activities? That deals with seasonal
3 closures and redirection of effort or whatever. Eric?

4 MR. GILMAN: That's fine. And maybe add
5 replacement after the word --

6 DR. BROMLEY: Speak into the mike, please,
7 Eric.

8 MR. GILMAN: Sorry. And add "and replacement"
9 after the word "redistribution." And I can explain
10 that an example is when a U.S. fleet was prohibited
11 from fishing in waters in the high seas, the effort was
12 replaced by foreign fleets that had fewer restrictions
13 on measures to reduce bycatch of certain protected
14 species. So, in other words, actually an adverse
15 effect on those protected resources as a result of
16 closing that U.S. fishing.

17 DR. BROMLEY: It sounds like a little bit of a
18 special case, Eric, but maybe -- I don't want to --

19 MR. GILMAN: It's just one example that --

20 DR. BROMLEY: And if we have to clarify what
21 we mean by replacement. No?

22 DR. PEREYRA: I don't like replacement.

1 DR. BROMLEY: You don't like it?

2 DR. PEREYRA: No.

3 DR. BROMLEY: I think, Eric, you're receiving
4 an unfriendly reception.

5 MR. GILMAN: Is there a reason why it's not?

6 DR. BROMLEY: Well, I'll let others speak.

7 MR. PETERSON: I would suggest that
8 redistribution takes care of replacement. It's just
9 adding words, just making it too wordy. And, you know,
10 I want to get back to where we were initially with this
11 document.

12 Even though probably attorneys and the two
13 secretaries who I'm sure are very learned people are
14 going to be reading this, at some point stakeholders
15 and people off the street are going to be reading this,
16 and it needs to be as simple and less wordy as possible
17 I think.

18 MR. GILMAN: I'm comfortable with changing the
19 wording. Is there a problem with the concept?

20 DR. BROMLEY: Well, yeah, there's a problem
21 with the concept. I think people aren't quite sure
22 what replacement means, and then we have to elaborate.

1 And I guess I'm asking you whether you can't get 99
2 percent or 94 percent of where we need to be without
3 the word "replacement," Eric. That's what I'm asking.

4

5 MR. GILMAN: That's fine.

6 DR. BROMLEY: Is that okay? You're a very
7 gracious man, Eric.

8 MR. GILMAN: Thank you.

9 DR. BROMLEY: Don't take it to the bank, but
10 it's a compliment nonetheless.

11 MR. O'HALLORAN: Mr. Chairman, call for the
12 question.

13 DR. BROMLEY: Pardon me?

14 MR. O'HALLORAN: Call for the question.

15 DR. BROMLEY: I want to make sure everybody's
16 happy.

17 MR. BENTON: You're being awfully
18 accommodating now that it's past three o'clock.

19 (Laughter.)

20 DR. BROMLEY: It's obvious you don't
21 understand my strategy yet then. Hammer and then
22 waiver, and hammer and dither and hammer and dither so

1 that everybody knows by God we've got pressure but
2 we're also not going to railroad anybody. I don't want
3 anybody to feel railroaded. So I'm just going to take
4 a deep breath, okay, and I want everybody to just think
5 about what you've done.

6 (Laughter.)

7 DR. HIXON: Would it help if we held hands?

8 DR. BROMLEY: I'm sorry, what?

9 DR. HIXON: Would it help if we held hands?

10 DR. BROMLEY: How are we doing -- I want to
11 know how we're doing with our list. Lauren, could you
12 back to our list? Are we okay with the dealbreakers?
13 Are we close to having --

14 DR. AGARDY: We have a motion on the floor.

15 MR. BENTON: We could just vote on this, Mr.
16 Chairman.

17 MS. STEVENSON: And then I have something else
18 still on the list. I'm still on the list, remember.

19 DR. BROMLEY: Yeah, okay. Let's vote on this.
20 Come on. All in favor say aye.

21 (Chorus of ayes.)

22 DR. BROMLEY: Opposed?

1 (No response.)

2 DR. BROMLEY: All right. I thought you meant
3 vote on the report, David.

4 Yes, Barbara?

5 MS. STEVENSON: Okay. Going back to my issue
6 on -- I still can't pronounce that word -- prohibition
7 of use. We have an Executive Order and the Executive
8 Order tells a lot of people to do something, but we
9 also have a charge. And what is our charge say?

10 If our charge doesn't specifically say we have
11 to address these things, then I think that all of the
12 ones that are specifically in the Executive Order where
13 it tells like 17 agencies to deal with it, that we
14 should let them deal with it and maybe comment on
15 whatever they deal, whatever they come up with. But we
16 shouldn't presume, unless the charge tells us to, to do
17 the work for these other agencies.

18 And I don't have our charge with me.

19 MR. PETERSON: Mr. Chairman?

20 DR. BROMLEY: Yes, Max?

21 MR. PETERSON: I move the adoption of the
22 report with the delay of these items until tomorrow

1 morning till we can give attention to items that are
2 hanging, because we're beginning to develop a laundry
3 list of items, and I think that we need a little time
4 to think about those overnight. But I would
5 move the adoption of the main report and delay this
6 until tomorrow, delay this laundry list. Because this
7 is really a recommendation to the future FAC, things we
8 didn't worry about. And you've got that on your list
9 for tomorrow.

10 DR. BROMLEY: Yeah, but it was also conditions
11 for some people to approve the report, which is why I
12 felt that it was important for us to work on.

13 MR. PETERSON: Well, if there's anybody that
14 considers this a dealbreaker to handle it this way,
15 then I'd let them speak against the motion. But I'd go
16 ahead and make the motion.

17 DR. MURRAY: Second the motion, Mr. Chairman.

18 DR. BROMLEY: It's been moved. Has it been
19 seconded?

20 DR. MURRAY: I've just seconded it.

21 DR. BROMLEY: We vote on the report. Could
22 you clarify for me, Max, what you mean by "take these

1 up in the morning?"

2 MR. PETERSON: Well, we've got a place where
3 we talk about the future FAC, and I think in that we
4 need to say that there are certain things that were
5 unresolved by this FAC and need attention by the new
6 FAC. And some of these items belong there, and some of
7 them may not. But we can debate that tomorrow when
8 we've got -- we're fresh and got some more time.

9 But there's some people that are going to
10 leave after tonight, and I'd rather give them a chance
11 to vote if we could.

12 DR. BROMLEY: Correct.

13 MR. PETERSON: So we have the maximum vote of
14 the committee.

15 DR. BROMLEY: Okay.

16 MR. PETERSON: So I'm trying not to squelch
17 anybody or not trying to push anybody off. I'm just
18 trying to get us to move to what you wanted to do at
19 three o'clock. I think if we did it now, we'd all feel
20 better. And then we can hold hands and sing kumbaya.

21 DR. BROMLEY: That's fair enough, Max. And
22 it's been seconded, spoken to. Barbara, then Wally.

1 Barbara?

2 MS. STEVENSON: Obviously it should be clear
3 to everybody that I have a problem with being on the
4 list for tomorrow for possible inclusion, something
5 that I don't understand for prohibition of consumptive
6 uses, which may or may not be a dealbreaker with me,
7 depending on what it is. I don't know what it is, so I
8 don't know whether it's a dealbreaker or not.

9 DR. BROMLEY: Tony?

10 DR. CHATWIN: Mr. Chairman, I've been clear
11 from -- I did not mean to cause all this heartburn to
12 my honorable friend from Maine, and I would say take it
13 out if -- take it off the list. It's not a dealbreaker
14 for me.

15 DR. BROMLEY: It was your intervention. Do
16 you pull it back?

17 DR. CHATWIN: Pardon?

18 DR. BROMLEY: You'll take it back off? It was
19 yours.

20 DR. CHATWIN: Yeah. And I'm not speaking to
21 the motion, but I would rather -- well, now I am
22 speaking to the motion.

1 (Laughter.)

2 DR. CHATWIN: I would rather have spoken to
3 that whole thing and just, you know, not have the
4 pending issue. And if that's the impediment, let's
5 take it off.

6 DR. BROMLEY: Such a deal. Wally?

7 DR. PEREYRA: Mr. Chairman, although I'm
8 absolutely ecstatic and encouraged by the progress
9 we've made and where we are now as to where we were
10 when we first arrived here yesterday, I'm not
11 comfortable taking a vote at this present time,
12 although I fully appreciate the need for those that are
13 going to leave to be able to express their support for
14 the document in its present form.

15 The reason why I'm not comfortable is because
16 I think that the longer we go on, the better the
17 document becomes, and there may be something that comes
18 up tomorrow that improves the document even more from
19 what it is right now.

20 And as an alternative, I was going to suggest
21 that maybe those that have to leave would be given an
22 opportunity for a minute or two to express their

1 support or whatever for the document as to where we've
2 brought it at the present time.

3 MR. PETERSON: You can't vote, though, Wally.

4 DR. PEREYRA: Pardon?

5 MR. PETERSON: You can't vote if you aren't
6 here.

7 DR. PEREYRA: No. They could express their
8 opinion.

9 DR. BROMLEY: You know, can I think about that
10 for a minute, Wally?

11 DR. PEREYRA: Yes.

12 DR. BROMLEY: Bob Zales?

13 MR. ZALES: And this kind of goes along with
14 what Wally is saying, and I want to be sure that I'm
15 not trying to offend anybody with what I'm fixing to
16 say. But I've never been one to be bashful about
17 saying what's on my mind.

18 But I'm consistently, and not just with this
19 panel, but with just about any panel I've ever served
20 on, I'm consistently bothered with when you're sent
21 information on where a meeting is going to be, when
22 it's going to start, when it's going to end, that on

1 the last day generally more than half the people end up
2 leaving before it ever goes.

3 And I don't understand how when you know way
4 ahead of time what a meeting is going to consist of,
5 what the time limit is going to be and where you're
6 going to be, that you don't make plans to stay there
7 for that. And if those people are not here when this
8 vote comes, they had an opportunity. they had the
9 knowledge. They had advance notice. They knew what
10 was going to be.

11 So to cut discussion and debate short based on
12 the fact that some people may be leaving in my mind is
13 wrong. But that's just me.

14 DR. BROMLEY: Okay. Dolly?

15 DR. GARZA: Thank you, Mr. Chair. I haven't
16 seen anything new added to this list, and so I think I
17 agree with Max. I'm ready to call for the question on
18 the report.

19 DR. BROMLEY: Right. I am, too. Mike
20 Nussman?

21 MR. NUSSMAN: Mr. Chairman, I hesitate to say
22 this. Might we stand at adjournment for five minutes

1 and think about this in groups and then come back and
2 be ready to move?

3 DR. BROMLEY: I'll grant that. We adjourn.
4 Recess, not adjourn. We recess for five minutes.

5 (A brief recess was taken.)

6 DR. BROMLEY: Are we back? Okay. We have a
7 motion before us to vote on the report. Are you ready
8 to do that? Okay? All in favor of the report say aye.

9 (Chorus of ayes.)

10 DR. BROMLEY: Opposed?

11 (No response.)

12 DR. BROMLEY: I want to hug each one of you.

13 (Applause and laughter.)

14 DR. BROMLEY: I'd like to hug each one of you,
15 but don't worry, the feeling passed.

16 (Laughter.)

17 DR. BROMLEY: I'm very impressed. You guys,
18 you folks are marvelous. Thank you. There was a lot
19 of bending, and that's what we need. No breaking, just
20 bending. And I'm very happy, and you should be, too.
21 You have done fantastic.

22 We have in the morning then, according to I

1 guess the motion, Max, is that we come back in the
2 morning and we visit those issues, right? That was
3 part of the motion.

4 MR. PETERSON: Right.

5 DR. BROMLEY: We do have to write an executive
6 summary. And so I'd like to have you look at tomorrow
7 morning -- oh, let me say -- just a minute, Bob,
8 please. The reception tonight has been moved back a
9 half an hour, so we have a bit more time. I'm not
10 going to keep you here, but -- you deserve to go home.

11

12 But the deal has been moved back a half an
13 hour. The van will leave at a quarter till six from
14 the lobby, so it will give you a little more time to
15 put your feet up and whatever you'd like to do. There
16 will be a van going. We have some cars. So, again,
17 people with cars can collect people.

18 The panel discussion out there will be at 6:30
19 rather than six. So the whole thing has been moved
20 back a half an hour, so we have a bit more time. Is
21 that right, Lauren? Okay. So, we'll have a little
22 break.

1 In the morning, Dana are you here? I think
2 Dana indicated, yeah, one person signed up for tomorrow
3 morning public comment, or no persons?

4 DANA: We don't have anybody yet.

5 DR. BROMLEY: Okay. Well, we call to order at
6 eight in the morning. We have a public comment period.

7 It's supposed to start at ten past eight. And then we
8 had from nine until 10:30 to finalize the document and
9 review. We had a break at 10:30. We have at 10:45 a
10 discussion of the next FAC charge.

11 So, in a sense, if the public comment period
12 turns out by morning to be empty, then we will have
13 some time. We can revisit those issues. But I do
14 believe we want to start work on the executive summary,
15 all right? This cannot be something we do after this.

16 None of us wants the responsibility of writing an
17 executive summary. We want to do it right in this
18 room.

19 And we have some placeholders I think. I've
20 asked Lauren to sort of give us -- is that right,
21 Lauren? We're not going to do it tonight, but sort of
22 placeholders of things that we believe should show up

1 in the executive summary.

2 So, I think that's -- Wally?

3 DR. PEREYRA: Mr. Chairman, I like statistics,
4 numbers. I think they sometimes tell things.
5 Yesterday when we had our initial go around as to where
6 people were, I kept score. And the score at that time
7 was 12 yes, 8 no, and 3 I couldn't figure out. Some
8 people have left. And so we've gone from that to now
9 we have a score of 21 to zero, which I just think is
10 incredible.

11 DR. BROMLEY: Thanks, Wally.

12 DR. PEREYRA: So my hat's off to you.

13 DR. BROMLEY: Yeah. A cynic would say, well,
14 if you got that kind of support, you didn't say
15 anything. But I don't believe that that is the case
16 here. I think we have said a lot, and I'm very happy.
17 Other comments? Dolly?

18 DR. GARZA: Wally, could you add one more to
19 that? I was outside of the room. But I also have to
20 beg one more request. I ran up to get my coat when we
21 were going to go down to the fish market, so I'm not in
22 this gorgeous picture. I wonder if we could do one

1 more?

2 DR. BROMLEY: Yeah. I noticed that. I saw
3 you. But now we're missing George Lapointe, so, will
4 everybody be here in the morning? George will be back.

5

6 Dolly, are you the only one that didn't make
7 it in the picture? I think you are. Seriously, what
8 do you want to do? Boy, did we have -- can you believe
9 what we're talking about now? Rod?

10 DR. FUJITA: No, this does not speak to the
11 issue of the picture. I have a question about
12 tomorrow.

13 DR. BROMLEY: Okay.

14 DR. FUJITA: I just -- I find it difficult to
15 believe that we can craft an executive summary, you
16 know, as a group, because we took three hours to craft
17 one sentence. So, I'm looking for alternatives. I
18 hate to put this burden on anybody, but if some group
19 of people would be willing to take a first crack at
20 least at some language for an executive summary, that
21 would help me tremendously.

22 DR. BROMLEY: Okay. Let me ask this. Is it

1 true that an executive summary might be a verbatim cut
2 and paste from the document, introducing no new
3 language? Is that fair?

4 DR. FUJITA: That's what it is.

5 DR. BROMLEY: All right. Then the issue is
6 what gets in and what does not get in, right? Those
7 are the issues that have to be addressed. So that's
8 why I said, I asked Lauren to present, to work on a
9 list. I said, don't tell anybody we have it because
10 they'll get cranky if they think we've written it
11 before the report's been approved. But you know how
12 things go.

13 So, Lauren does have a list of placeholders.
14 One option in the morning would be to open with a list
15 of placeholders. And what we have is a discussion
16 about what goes on the list and what doesn't, and then
17 of those things you agree go on the list, it's a simple
18 matter of cutting and pasting.

19 Michael?

20 DR. CRUICKSHANK: Thank you, Mr. Chairman. I
21 was thinking that the recommendations should be solidly
22 listed in the report itself at the very end. Right now

1 they're scattered throughout the document and they're
2 also oftentimes discussion on this --

3 DR. BROMLEY: Thank you. I'd like to ask a
4 question. The question I have for you is, is not the
5 whole report a set of recommendations? To what extent
6 is there anything in the report that is not a
7 recommendation? I ask this not to be cute, Mike, but
8 in a sense, what are we going to present? A summary of
9 what is there?

10 Tundi?

11 DR. AGARDY: I think the entire report is
12 advice and recommendations, but I think the reason Mike
13 asks it is because all of us recognize that
14 decisionmakers don't read reports that are more than a
15 page and a half long.

16 So I think we can answer -- satisfy people
17 like Mike by making sure that the executive summary
18 really captures all of our key recommendations, and
19 that's easy to do, because --

20 DR. BROMLEY: Okay. So people are confident
21 that out of this 25 pages single-spaced, we can extract
22 key recommendations. Is that correct?

1 DR. AGARDY: Mm-hmm. I think so.

2 DR. BROMLEY: Terry?

3 MR. O'HALLORAN: I'd like to suggest that it
4 might be helpful if we could get a new copy of what our
5 report looks like with all the changes that we've made
6 so that tomorrow morning we are working from our actual
7 report.

8 DR. BROMLEY: Lauren, what is our?

9 MS. WENZEL: Yeah, we can do that.

10 DR. BROMLEY: We can do this.

11 MR. O'HALLORAN: Can we? I mean, is that
12 doable?

13 DR. BROMLEY: Will we be able to reproduce it
14 also, Lauren?

15 MS. WENZEL: Yes.

16 DR. BROMLEY: Okay. That we will have. With
17 all the changes identified, Lauren?

18 MS. WENZEL: Do you want the changes
19 identified or do you just want a clean copy?

20 DR. BROMLEY: Can't we just have a clean copy,
21 Terry?

22 MR. O'HALLORAN: A clean copy.

1 DR. BROMLEY: Okay. Bob and then David.

2 MR. ZALES: That was my question, what Terry
3 just asked, and I was going to see if Lauren, for those
4 of us that have laptops in here with us, if she could
5 e-mail us a copy of it so we can just play with it here
6 rather than a hard copy.

7 MS. WENZEL: Yeah. We can do that. It's
8 going to take me a little while to clean it up.

9 MR. ZALES: Okay. But whenever, I mean,
10 because you'll have to clean it up to make a hard copy
11 with anyway. But when you do, if could just e-mail a
12 copy, that would work for me.

13 DR. BROMLEY: That cuts down, because the
14 hotels --

15 MR. ZALES: Save a leaf on a tree.

16 DR. BROMLEY: Hotels make a lot of money off
17 of Xeroxing. David Benton?

18 MR. BENTON: I think this is all fine, Mr.
19 Chairman, everything that you're discussing right now.
20 The concern that flashed through my mind, and I just
21 waited to raise it for you as chair, is having the
22 document sit out there overnight and people come back

1 with nitpicking changes to the main document that we
2 approved.

3 DR. BROMLEY: We're not going to do that.

4 MR. BENTON: Well, one way to assure that that
5 occurs -- that that does not occur, Mr. Chairman, is to
6 reconsider our vote and vote down the reconsideration
7 which means that any change then would require a three-
8 quarters or two-thirds vote to change the document.

9 DR. BROMLEY: You sound like Bill Frist.

10 MR. BENTON: I've been there, and I've had to
11 do that.

12 DR. BROMLEY: I appreciate the friendly nature
13 of your intervention, but I don't want to pre-judge my
14 esteemed colleagues that they would stoop to asking to
15 reconsider what we just approved. I trust them not to
16 do that.

17 (Laughter.)

18 MR. BENTON: Buyers' remorse always happens
19 about 12:30.

20 MR. O'HALLORAN: By that time you're usually
21 stuck with it. Your deposit has already been cashed.

22 DR. BROMLEY: Let's ask them. Ask your

1 question. Lauren came to me with a question, so let's
2 ask.

3 MS. WENZEL: The only issue that I think is
4 not completely nailed down are these unresolved issues
5 that we talked about putting in the conclusion. And I
6 have language from Mel and from Dave Benton. And we
7 have a few other bullets. And we talked about, you
8 know, crafting a paragraph or a few paragraphs out of
9 that, and that's the only piece that people haven't
10 seen.

11 DR. BROMLEY: Mark and then Barbara.

12 DR. HIXON: I suggest just a separate page
13 that has provisional wording to that, because that's
14 something we haven't finished yet, and have that be
15 severed from the document for now.

16 DR. BROMLEY: Is that okay with everybody?
17 Barbara, your hand was -- Barbara and then Steve.

18 MS. STEVENSON: It's not on this suggestion.

19 DR. BROMLEY: Okay. Well, remind me. Steve?

20 DR. MURRAY: Yeah. I would just encourage
21 that whatever that last piece is that it be short and
22 brief. In other words, this doesn't need to be a

1 lengthy dialogue about each of those issues. It needs
2 simply to identify the issues I think. Because
3 otherwise, we'll be dealing with the lengthy dialogues
4 about each of those issues.

5 DR. BROMLEY: These are just almost a little
6 bit more than placeholders aren't they? Mike Nussman.

7 MR. NUSSMAN: Mr. Chairman, I would agree with
8 Steve. I think that is -- we make it as short as we
9 can and get by with it. But I also would make it part
10 of the document even if it's an appendix or something
11 that's --

12 DR. BROMLEY: It's clear that it is something
13 we have sort of already approved, right?

14 MR. NUSSMAN: Right.

15 DR. BROMLEY: Is that right?

16 DR. MURRAY: That's fine.

17 DR. BROMLEY: Is that okay? So now back to
18 the executive summary. Oh, Barbara, yeah, go ahead.

19 MS. STEVENSON: Yeah, on the executive
20 summary. I have been thinking about this and looking
21 through here, and I do understand the need to only have
22 a page and a half or so, and I do not see it as an easy

1 task, because, I mean, you do the objectives, and
2 that's a whole page. And we all have things that we
3 think are critical in here.

4 I have no solution, but I just -- I do believe
5 somebody needs to work on it before the whole group
6 works on it, or it is going to take us quite some time.

7 And maybe you could assign a group, which I do not
8 want to be on.

9 (Laughter.)

10 MS. STEVENSON: To make that clear, to work on
11 it in the morning and start the meeting slightly later
12 or something like that.

13 DR. BROMLEY: What about -- let me ask a
14 strategic question. If we put an executive summary on
15 it, we invite important people not to read the whole
16 report. Is there any sense that we not put an
17 executive summary on it to force important people to
18 read the whole thing?

19 MR. PETERSON: Mr. Chairman, I agree with you,
20 and there is a problem with doing an executive summary
21 because normally when you do an executive summary, you
22 do repeat all the recommendations, and thing has got

1 recommendations scattered all through it.

2 I would prefer that we do something called an
3 overview of the document.

4 DR. BROMLEY: A narrative, not a bulleted
5 thing, but a narrative?

6 MR. PETERSON: Just a narrative overview of
7 the document, that this sort of --

8 DR. BROMLEY: And this would be a page long?

9 MR. PETERSON: A page or a page and a half
10 long that just provides an overview of the document
11 that just says, you know, the FAC committee held a
12 series of meetings over two years and produced a report
13 and say the report addresses, you know, this and this
14 and something else.

15 And we don't try to repeat verbatim what's in
16 the report. Because then you invite people not to read
17 the report.

18 DR. BROMLEY: Yeah.

19 MR. PETERSON: But I think you can do an
20 overview that's a different animal than an executive
21 summary that could be a page and a half. And then
22 you're not stuck with repeating all the recommendations

1 and so on.

2 And I think that would get us over the hump,
3 because I don't see us ever getting an executive
4 summary done tomorrow.

5 DR. BROMLEY: Do you know anybody who could
6 write that, Max?

7 MR. PETERSON: I think you and Lauren could.

8 (Laughter.)

9 DR. BROMLEY: I sort of had you in my
10 crosshairs.

11 MR. PETERSON: Well, I'd be glad to stay and
12 work with you and Lauren and maybe my friend Mark here
13 to the right or Bonnie or whoever. Three or four
14 people ought to do it.

15 DR. BROMLEY: Are there political implications
16 of who gets to write this paragraph?

17 MR. PETERSON: I wouldn't think so.

18 DR. BROMLEY: Well, you're maybe the wrong guy
19 to ask. Are there political implications of who this
20 anointed group is going to be? I want to know it
21 beforehand. Mark?

22 DR. HIXON: Well, I didn't want to answer your

1 question.

2 DR. BROMLEY: I know.

3 DR. HIXON: But to answer your question, I
4 think it would be a neutral enough statement that there
5 are no political ramifications. But I support what Max
6 just proposed, essentially because this is a quite
7 short document. In fact, it's about the length of a
8 typical executive summary for a long document. I
9 support Max's proposal.

10 DR. BROMLEY: Okay. How would you like to
11 proceed? And then we'll stop. Tundi?

12 DR. AGARDY: I'd like to volunteer to work
13 with whoever is -- I want to anoint myself.

14 (Laughter.)

15 DR. BROMLEY: Good. I'd like to have Mike
16 Nussman join you. Would you do that, Michael?

17 MR. NUSSMAN: I'd love to, yes sir.

18 DR. BROMLEY: Anybody else want to join them?

19 (No response.)

20 DR. BROMLEY: Would the two of you --

21 (Laughter.)

22 MR. NUSSMAN: Mr. Chairman, there's absolutely

1 no way I can let Max Peterson go to this reception and
2 us sit here and do that, so I would anoint Max to say,
3 because in fact it was his idea.

4 DR. BROMLEY: That's right. You know, I was
5 just about to ask him to chair this group. But I do
6 not want it to be a replacement for going out there
7 tonight and celebrating, all right? If you guys can't
8 write a page, a page and a half sometime before eight
9 in the morning, then you're beneath contempt.

10 (Laughter.)

11 MR. NUSSMAN: Mr. Chairman, let me assure you,
12 we can write a page and a half. We may spend three
13 more days debating it, but we can write a page and a
14 half.

15 DR. BROMLEY: No. You know, go party tonight.
16 But meet over breakfast or something. Does everybody
17 else trust these three?

18 MR. O'HALLORAN: Assuming we will have a
19 chance to look at it after they write it.

20 DR. BROMLEY: Yeah, yeah. Max?

21 MR. PETERSON: If you make me the chair, I'll
22 take the chair's prerogative to call it -- are you here

1 in the morning, Mike?

2 MR. NUSSMAN: I can do it early.

3 MR. PETERSON: Let's do a 7:00 a.m. meeting in
4 the morning, and we'll have it ready by the time you
5 convene.

6 DR. BROMLEY: Isn't that wonderful? Okay.

7 MR. PETERSON: And that allows us to party
8 tonight.

9 DR. BROMLEY: Yeah. Not too late, Max. Gil?

10 MR. RADONSKI: We were so busy celebrating and
11 patting ourselves on the back, I would like to extend
12 my thanks to Lauren for her extremely hard work.

13 (Applause.)

14 MR. RADONSKI: And I don't know if we're going
15 to get a standing ovation for the rest, but Joe and
16 Charlie and Dana and Bunnie and everybody else that
17 stuck with this whole process made it happen.

18 (Applause.)

19 DR. BROMLEY: Heidi.

20 (Applause.)

21 DR. BROMLEY: Thank you, Gil. That was --
22 some of us have no idea how hard all of those people

1 worked. That's very good. Yes, Joe?

2 MR. URAVITCH: I was going to save it till
3 tomorrow, but since everybody's saying how wonderful
4 everybody else is, I will just throw in my words on
5 behalf of the staff of the MPA Center, and I think from
6 both departments. The incredible work you all have
7 done over the past two years and our appreciation for
8 the willingness to work out the really tough issues
9 together and to move this whole thing forward.

10 We had a lot of trepidation I think two years
11 ago and continually probably throughout the two-year
12 process.

13 DR. BROMLEY: It's not over yet.

14 MR. URAVITCH: Yes, I realize that. But I
15 just wanted on behalf of all of us to thank you for the
16 work you've done, and especially your chair, Dan
17 Bromley, and the vice chair.

18 (Applause.)

19 DR. BROMLEY: Shall we go boogie? All right.
20 Can we recess?

21 MS. WENZEL: Yeah. Just logistics.

22 DR. BROMLEY: Logistics.

1 MS. WENZEL: Well, I think everyone knows, Dan
2 said that the shuttle, the dreaded shuttle, will be in
3 the lobby at 5:45. We'll also have names of cab
4 companies and no one will get stuck.

5 And I also wanted to mention for those who are
6 going on the field trip that the cost of lunch is going
7 to be \$10, so if you could bring that down with you
8 tomorrow, that would be great. And if anyone's plans
9 change about the field trip, please let me know.
10 Thanks.

11 DR. BROMLEY: Thanks to all of you.

12 (Whereupon, at 5:07 p.m., the conference
13 recessed until 8:00 a.m. on May 19, 2005.)

14 * * * * *